

THE  
HISTORY  
OF  
ENGLAND  
FROM THE  
ACCESSION of JAMES I.  
TO THE  
REVOLUTION.

VOL VII

By CATHERINE MACAULAY GRAHAM

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ACCESS



REVOLUTION

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the advantages turned the balance in favour of the elector of Brandenburg, who was not only a powerful prince, but one who was equally bound by the laws of honour and prudence, would have eventually secured the tranquillity and the safety of Europe. Never was there a crisis in which England was of such importance, and in which her domestic prosperity and the security of independent states were so much concerned. The elector of Brandenburg, who was not only a powerful prince, but one who was equally bound by the laws of honour and prudence, would have eventually secured the tranquillity and the safety of Europe. Never was there a crisis in which England was of such importance, and in which her domestic prosperity and the security of independent states were so much concerned.

**C H A P. I.**  
*Campaign of 1674.—New sessions of Parliament.—Another new sessions of Parliament.—Acts passed.—Campaign of 1675.—New treaty with France.—Campaign of 1676.—New sessions of Parliament.—Success of the French arms in 1677.—Acts passed.—Marriage of the prince of Orange with the lady Mary.—New sessions of Parliament.—Campaign of 1678.—New treaty with France.—Acts passed.—Peace of Nimeguen.—Affairs of Scotland.*

**I**N the treaty of neutrality the elector of Brandenburg had signed with Turenne, an article was admitted, in which the elector reserved to himself a liberty to act in conjunction with the empire, according to such resolutions as should be taken in the diet: this opened the way for an union with the confederates: By the means of the emperor, the bishop of Munster and the elector of Cologne were brought to a peace with the States; and



Ann. 1674. these advantages turned the balance so strongly in favour of the confederates, that the additional assistance of England, or even a strict neutrality on the part of Charles, a conduct to which he was equally bound by the laws of honour and prudence, would have effectually secured the tranquility and the safety of Europe. Never was there a crisis in which England was of such importance, and in which her domestic prosperity and the security of independent states so entirely depended on the wisdom of the policy of her councils: Lewis understood this well; he soon repented of an economy which had driven his ally into the necessity of concluding a separate peace, and instead of appearing disgusted with a measure which the exigencies of Charles had occasioned, he cheerfully embraced the only alternative which offered, with the view of governing the councils of England in a manner as should render her yet subservient to his ambition. Lest the clamours of Parliament, or the emptiness of the Exchequer, should force the king into measures contrary to his inclination, and the interests of France, five hundred thousand crowns were advanced by Lewis, on the consideration that the Parliament should be prorogued till April, 1675; or, in case it should be convened earlier, and found intractable, on a dissolution of this assembly the king was to receive a pension of one hundred thousand pounds from France.

CHARLES's necessities, and his desire to avoid the importunate addresses of Parliament, made him embrace the first of these alternatives: France was now at liberty to carry on the war without interruption on the part of England, and the long interval of prorogation was taken up in a variety of schemes to detach the prince of Orange, and, consequently,

quently, the States from the interests of the confederates: but Ann. 1674.  
these attempts succeeded so ill, that the offer of the king's  
mediation, though not rejected, was very unwillingly accepted  
by the prince of Orange, who pleaded his engagements to  
Spain, never to come to an accommodation till all things in  
Flanders were restored to the condition in which they had  
been left by the Pyrenean treaty; and a letter, in very  
strong terms, was written to Charles by the prince, which  
justly complained of the breach of a secret article in the late  
treaty of peace, by which Charles, on the demand of the  
States, was to withdraw his troops from the service of France;  
but which was so ill complied with, that the French king  
had leave to recruit these forces, whilst the States were de-  
nied the liberty of raising any levies in England.

To cover the king's partiality, Sir William Temple, who  
was known to be averse to the French interest, was sent over  
to offer his majesty's mediation to the States in form, and to  
exert all his endeavours with the prince of Orange, to en-  
gage him to pacific measures; but the embassy succeeded so  
ill in regard to the influencing the prince, that though accord-  
ing to Sir William Temple, he found the States strongly dis-  
posed to peace, yet the Stadtholder, whose power was now  
in its meridian, who had gained great popularity by the suc-  
cess of his military enterprizes, and who was inflamed with  
the idea of martial glory, under various pretences dextrously  
eluded, during the whole campaign, the meeting with Temple:  
and after the troops were sent into winter-quarters, he told  
that minister in his first audience, that 'till greater impres-  
sions were made on France, reasonable terms could not be  
hoped for, and it was therefore vain to negotiate.

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Notwith-



## HISTORY OF ENGLAND.

Ann. 1674.

Campaign of  
1674.

NOTWITHSTANDING this steadiness in the prince, the success of the campaign had not answered expectation: the prince of Condé had foiled all the endeavours of the confederates to penetrate into France by that quarter where the frontier was feeble; and as his army was inferior in number, he cautiously evaded every effort of the enemy to bring him to an engagement. The prince of Orange, in his ardour for fight, rashly exposed a wing of his army at Senefé: the French general did not fail to take advantage of this oversight, and a very obstinate action ensued, in which the prince in a great measure compensated, by his courage, for the deficiencies in his conduct as a general. He rallied his flying troops, and, leading them back to the charge, attacked in his turn the veteran forces of France with such spirit and perseverance, as obliged the prince of Condé to exert greater efforts, and more personal bravery, than in any action in which he had ever commanded: even after the sun had withdrawn his rays, the battle was continued by the light of the moon; till at length darkness put an end to the contest, and left the victory undecided. Oudenarde was afterwards invested by the prince of Orange, on the hopes of having another opportunity to try his skill with the prince of Condé; but on the approach of the French army, the Imperial and Spanish generals took measures to oblige him to raise the siege. The prince of Orange, on this disappointment, left the army in disgust; but being at length prevailed on to re-join it, he besieged and took Grave, the only place the French held in the territories of the republic.

In the beginning of the year the French had fallen into Franche Compté, and re-conquered it; and Marshal Turenne gained advantages over the allies in Alsace: by a sudden and forced

forced march he attacked and beat, at Swintzheim, the duke Ann. 1674.  
of Lorraine, who had joined a body of Imperialists under  
the command of Count Caprara: the Imperial army was now  
augmented with an additional force under the duke de Bour-  
nonville, and by the troops of Lunenburgh, the elector of  
Brandenburgh, and the new bishop of Munster; when Tu-  
renne, who had retired to Lorraine, returned unexpectedly upon  
them, and defeated a body of the enemy at Mulhausen.

Divisions in opinion, and dissensions in matters of su-  
periority, distracted the councils of the confederates, who  
were more intent on thwarting each other than in pursuing  
measures for the public safety. If any thing like a concert  
took place, it was divulged as soon as it was made: Turenne  
was constantly informed of all which passed, and, conse-  
quently, found it easy to disappoint the schemes of the enemy.  
He chased from Colmar the elector of Brandenburgh, who  
commanded the German troops; he gained a new advantage  
at Turkheim; and these defeats serving to increase the ani-  
mosities which prevailed among the confederates, they re-  
passed the Rhine full of anger and complaints against each  
other, leaving Turenne master of the field, with the re-  
putation of having not only preserved France with a very  
inferior army, but with having driven almost the whole col-  
lected force of the empire out of Alsace with ignominy.

Of all the princes who at this period suffered from the  
ferocious ambition of the French king, the elector Palatine  
was an object of the most respect and compassion. Though  
nearly allied to the house of Bourbon by the marriage of  
his daughter to the duke of Orleans, yet when he saw Ger-  
many invaded by the arms of France, and became sensible

of



Ann. 1674.

of the public danger, he made the necessary dispositions to join the confederates, and take part in the preservation of the empire. Such a conduct as this could not fail to incur the deep resentment of Lewis: Marshal Turenne had orders to march into the Palatinate, and to give the elector a specimen of what he was to expect in case he persisted in his attachment to the public cause. Turenne obeyed his orders punctually; the country was ravaged, several villages were reduced to ashes, Gertheim was surprised and taken; and when the elector demanded of the commanding officer, the reason for an hostility so unexpected, and so little deserved, he replied, that he had the honour to be born a Frenchman, and the subject of the greatest king in the universe, to whom only he was obliged to give an account of his actions.

The elector, maintaining his resolution and integrity, put himself in a posture of defence, and demanded succours of the emperor and empire. This provocation increased the violence of the enemy to the highest degree of military fury: the soldier had licence given him to live at discretion: lust, rapine, cruelty, and murder, prevailed in a manner which shew that principles of civilization have no reality in the human character; and the restraint of laws is the sole defence of the weak from the profligate depravity of their species. The cities, the towns, and villages, were consumed with fire; the whole Palatinate displayed a scene of total dissolution; and the elector found himself in no capacity to give the smallest protection to his ruined people, or to revenge, in any degree, the atrocious injury. The Imperial armies, which were intended to penetrate into France, were retired as far as Darmstadt; and though he sent the most pressing dispatches to Vienna, Raubon, and all the neighbouring princes and states,

states, in order to form an association against the common enemy, he received condolences instead of succours. Ann. 1674.

The unhappy elector, in the anguish of despair and repentment, sent a challenge to Turenne, which was refused, on the plea of a prohibition from the king of France: he afterwards repaired to Mentz, to confer with the dukes of Lorraine and Bourbonville, in the hopes of persuading them to set free the Palatinate, by the reduction of Philippsburgh; but he had the mortification to fail of success, and was at length obliged to content himself with a promise from the emperor of being put into the possession of Alsace for ten years, when it should be recovered out of the hands of France.

NOTWITHSTANDING the advantages gained by the French in the campaign of 1674, the superiority in numbers was so strongly in favour of the confederates, that the court of England thought it advisable to continue their endeavours to detach, if possible, the Dutch commonwealth from the general alliance; and with this intent lord Arlington, who had resigned his office of secretary of state to Sir Joseph Williamson, on the consideration of six thousand pounds, and had purchased the chamberlain's staff from the earl of St. Albans, for ten thousand, with the earl of Offory, was sent on an embassy to Holland; where, in a long conference with the prince of Orange, the earl of Arlington used all his rhetoric to persuade the Stadtholder into such measures of peace as France desired; into a discovery of those persons who had made advances to the prince, or the States, of raising commotions in England during the late war; and into secret measures with the king for assisting him against

any



Ann. 1674.

any rebels at home, as well as enemies abroad. The love of ambition and love were not omitted on this occasion, and the part assigned to the earl of Ossory was, to sling out intimations of a design to match the prince with the lady Mary, the duke of York's eldest daughter: but the prince of Orange, as has been before observed, was passionately fond of military glory, and he had a strong sense of those laws of honour, and even national preservation, which bound the States to fulfil their engagements with allies, who, in the hour of distress, had relieved them from the hands of the oppressor.

Being these obstacles to the success of the embassy, the earl of Arlington, with whom the proposal of the match originated, was personally disagreeable to the prince, on his having used to Mr. Van Rhede, the ambassador of the States, the following expression, That the king, his master, could make the prince of Orange be served as De Witt was, if he would set himself about it: and though a reconciliation had seemingly taken place, by some very complaisant letters sent from the prince to the earl, yet the affront was never digested or forgiven. The reception this ambassador met with was dry and sullen: the prince appeared uneasy whilst the conference lasted, and afterwards complained of the arrogance and insolence with which lord Arlington had entered into all his expostulations.

On the subject of the embassy, the prince refused entering on any conversation which tended to detach him from the interests of the allies: he evaded, on the principles of national preservation, the endeavours he had used even to constrain the king to a peace with the States; refused to

name the persons in England with whom he had treated; Ann. 1674. promised for the future, that if any thing should come to his knowledge which might disturb the quiet of his majesty's kingdoms, he would give notice of it in time, and returned the expostulations which had been made by lord Arlington, with complaint of the king's conduct to the States in their great distress; and of his majesty's present partiality towards France, in the raising of levies. The prince farther insinuated, that something was intended for the duke of Monmouth to his prejudice. In regard to the hints flung out by lord Offory, Sir William Temple asserts, that his highness took no farther notice of it than saying that his fortunes were not in a condition for him to think of a wife; a declaration which so highly offended the duke, that he expressed a very just indignation against lord Offory, for having degraded the honour of his family, in subjecting the princess to a refusal, by making the offer. Lord Offory justified himself on this point, and positively insisted that the hint of the alliance was first flung out by the prince, and it was from the making a comma instead of a period, in the letter which he sent on the occasion, that the duke was led into the mistake.

The earl of Arlington, whose timid counsels had given great disgust to the king and his brother, was received with all the coldness which commonly attends the want of success: he was no longer treated with the former confidence; and Sir Thomas Osborn, now created earl of Danby, shared with the duke of Lauderdale all that trust and favour which, for a short time, had been divided among the Cabal.



Ann. 1675.

New sessions  
of Parlia-  
ment.

It was not till the thirteenth of April, 1675, that the Parliament was suffered to meet: they were graciously informed by the king, that the reason of their being assembled was, that he might be instructed in what they thought yet wanting to the security of liberty and property; to give himself the satisfaction of having used his utmost endeavours to settle a right and lasting understanding between him and them; and to recommend the condition of the fleet to their consideration. He told them, that it was high time to be watchful to prevent the contrivances of ill men, who endeavoured to make it impracticable, by all the means which they could devise, to continue any longer the present Parliament: he repeated his assurances, that he would never depart from the Protestant religion as it was established in the church of England; intimated, that the season of the year would not permit of a long session; promised another meeting in winter; and advised moderation and temper, as necessary to disappoint the expectations of those who could hope only by violent and irregular motions, to prevent the bringing the session to a happy conclusion.

THE Commons, after they had voted their humble and hearty thanks to his majesty, for his gracious promises and assurances, proposed a very severe bill for the detection and prosecution of Popish priests; another, to make it treason to levy money without, or longer than the time prescribed by Parliament; a third, to vacate the seats of such members as accepted of beneficial offices; a fourth, prescribing a new test against Popery, to be taken by both Houses, on the penalty of incapacity; and they revived the Habeas Corpus bill, with one to prevent the sending men prisoners beyond sea.

The Commons having proceeded thus far in the giving the king information of what they thought necessary to the security of religion and property, began to take into consideration that part of his majesty's speech which regarded a supply. They voted three hundred thousand pounds for building of ships; but at the same time proceeded to appropriate the ancient tonnage and poundage to the use of the navy: they presented one address to prevent any farther anticipation, or charge, upon the customs of England or Ireland; and another, that his majesty would be pleased to recall his forces out of the French service.

To the Commons' address on anticipation, the king said, he would consider of it; to the second he replied, that he could not recall his forces out of the French service, without derogation to his honour and dignity, and prejudice to the peace he then enjoyed and professed to maintain; but he offered, by renewing the proclamation, to prohibit the going over of any more. The Commons took this matter again into consideration, and with so much warmth, that, in a dispute which arose on telling the numbers upon a division, both parties grew so violent, that the members ran in confusion up to the table, jostled one another, and were on the point of deciding the question by the sword, when the speaker put an end to the tumult by maintaining, with a proper spirit, the dignity of the chair: however, those members who were in the strongest opposition to French interest, gained the victory; and another address was sent up to the throne, in which the Commons remonstrated, that considerable numbers of his majesty's subjects, both before and since their late application, had been, and daily were, transported out of his majesty's service, to recruit the standing body in the ser-



Ann. 1675. vice of the Most Christian King, which had contributed greatly to the success of his arms.

The administration of affairs in Scotland continued to be as violent and illegal as ever, and to furnish fresh matter for the resentment of Parliament against that noxious minister, Lauderdale. Dr. Burnet, though a man of very different principles, had been a favourite of Lauderdale's; but, on some ill treatment he had received, and a kind of persecution which he had undergone, through the means of the duke, had dropt hints of dangerous secrets, with which he had been entrusted, and that on these reasons the duke would never rest till he had ruined him. This conversation being reported to the House of Commons, Dr. Burnet was sent for, and underwent a close examination; he, for a long time excused himself on the obligations of trust; but the House insisting that they had a right to be informed of all things which concerned the safety of the nation, they prevailed over the doctor's scruples, and brought him to confess, that he heard the duke wish to God that the Presbyterians in Scotland would rebel, that he might bring over the Irish Papists to cut their throats: farther, that the duke had asked him, whether the Scots might be depended on, if the king should need an army from Scotland to tame the opposition in England.

The duke of Lauderdale was the only member of the Cabal for whom the king, at this period, retained any friendship; and the Commons had succeeded so ill in their attempt to remove him from his majesty's councils and favour, that he had been lately raised to the dignity of an English Peer, with the additional obligation of a pension of three thousand pounds a year.

a year. Notwithstanding these provocations, and that the Ann. 1675. informations which had been given in against the duke, were grounds of equal sufficiency to those on which many impeachments had been laid, the Commons had the moderation to send up another address for his removal from his majesty's presence. To this his majesty replied, that one of the acts passed in the Scotch Parliament, of which the Commons complained, had been passed before the duke of Lauderdale was commissioner; that the second act was only in pursuance of the first; and as to the other offences, they were committed before the act of general pardon, which was not to be violated, lest the subject might have cause to fear that the great act of oblivion and indemnity might be violated also. So frivolous an answer to a charge of much importance, and accompanied with an address which demanded no other punishment but the necessary removal of a dangerous minister, served only to increase the resentment of the Commons: they continued their applications for the duke's removal, and his majesty was as obstinate in his refusals.

The earl of Danby, the new treasurer, had the art to raise himself in a very high degree of confidence with the king, and became the supreme, if not the sole, director in the administration of English affairs; and he flattered himself, that he should preserve the favour of the sovereign by increasing imperceptibly the power of the crown, whilst he was cajoling those whom he regarded as the bulk of the people, with the indulgence of their favourite prejudices. It was on these reasons that an order of council, in February, 1675, was published in the Gazette, for putting the laws in force against Popish recusants, &c. as also, for the suppression of conventicles; which was farther enforced by a proclamation



Jan. 1675. tion on the 27th. It was on these reasons that the old neglected cavalier party were invited to stand by the church and state, against the rebellious spirit of the nation, which, it was said, was running again into the errors of forty-one, and were fed with hopes and promises, that they should have a monopoly of all preferments for their reward. It was on these reasons that the building of St. Paul's was set on foot with great zeal; and it was on these reasons that a magnificent funeral for the late king, a circumstance of filial piety which was strangely forgotten on his majesty's accession to the throne, was now agitated in Parliament; and the statue of the royal martyr was erected at lord Danby's expence, that the party who loved and revered his memory, might receive, says Andrew Marvel, the reward of their loyalty in effigy.

The city of London was an object of too great importance to be over-looked by the minister. An intercourse of compliments and kindnesses was struck up between the citizens and the king: Sir Robert Viner, the lord-mayor, invited his majesty to be his guest at Guildhall, on his feast-day; and his majesty not only condescended to grace the entertainment, but to accept the freedom of the city, the copy of which was presented to him in a large gold box, with the seal in another, set with diamonds. To render this system of policy more comprehensive, the earl of Danby had paid an early court to the prince of Orange, by the sending his son over to accompany the earls of Arlington and Ossory, in their embassy, that he might tender to the Stadtholder in person his father's devoirs, and by the more substantial compliment of procuring the payment of the debt due to the prince.

THERE

Ann. 1675.  
 THERE are times when apprehension and suspicion more than balances that easy credulity to which the English are, of all people, the most remarkable for possessing. The past, though recent, measures of the court, set the thinking part of the nation on their guard; and the preparatory steps which the earl had taken to insure his success, had raised a suitable expectation that some great design was in hand. The Non-conformists were enraged to find, that all their hopes of a comprehension, or at least a mitigation, of their grievances, ended in a total disappointment: and the cavaliers, many of whom, according to the observation of lord-keeper North, had been struck with the apprehension, that the excess of enthusiastic loyalty in the Parliament would end in the total destruction of all which they had conceived to be law and liberty, treated with a becoming contempt advances, which stamped on them the character of men who could be hired to so base an action as the introduction of Popery and arbitrary power.

BESIDES these difficulties in the way of the treasurer's project, he had the earl of Arlington, the king's late confident, as a bitter opponent; and this disgraced minister fomented those jealousies which ended in a resolution not to give the king money whilst the earl of Danby was continued in the treasury.

PREVIOUS to the meeting of Parliament, such regulations had been made in the department of the treasury, and with such good effects, as plainly demonstrate, that if the king had not been very profuse in his private expences, and had not rushed into very desperate projects, his revenue would have been



Ann. 1625. been more than equal to his necessities: however, in the making these regulations the earl of Danby had pursued methods which were totally out of the due course of common law. The excise he had endeavoured to bring under his sole management; and by erecting the office of a general cashier, all money was paid into the Exchequer according to the directions of the treasurer, to the exclusion of the chancellor of the Exchequer, and the perverting the legal methods of receipts and payments of accounts. On this ground of accusation, and on several others, which, had they been proved, must undoubtedly have been judged highly criminal, a charge of high crimes and misdemeanors, branched into seven articles, was brought against the treasurer; but whether on the examination of this business sufficient proof was wanting, or whether the earl's friends were at this time the most powerful party in the House, or whether, as Marvel asserts, the expedient of high-bribing was found successful, certain it is, that the charge fell to nothing, and the majority were found in the treasurer's favour.

WHILST the Commons were thus busy in the redress of grievances, a very extraordinary attempt was made in the House of Lords, to effect that which had been regarded as too dangerous a remedy against the evils of disaffection and republicanism, even at the period when the nation was in the highest paroxysm of flaming zeal and loyalty.

In the year 1665, the courtiers had endeavoured to impose a test on the nation, by which all members of either house, and all who possessed any office, were to swear, that it was not lawful, upon any pretence whatsoever, to take up arms against the king; and that they abhorred that traitor-

ous

ous position of taking up arms by his authority, against his person, or against those who were commissioned by him in pursuance of such commission; and they were also to swear, that they would not, at any time, endeavour the alteration of the government, either in church or state. The earl of Lindsey, who was then of the House of Commons, and his younger brother, with the earl of Danby, who was then Sir Thomas Osborne, were the three voices which put the negative on this motion; but as opposition in conduct, if not in principle, is no phenomenon in the political history of this country, the reader will not be surprised to find, that the earl of Lindsey had now the honour to be the first mover for the court, that a bill should be brought into the House of Peers, in which the same test was to be imposed. The earl of Lindsey was seconded by the lord-keeper, who called the bill a moderate security for the church and crown; but the party in opposition, among the fiercest and the ablest of whom were the duke of Buckingham and the earl of Shaftesbury, declared, that no conveyance could, in more compendious or binding terms, have drawn a disquietment of the whole birth-right of Englishmen. During seventeen days the debates were carried on with all the zeal which the importance of the subject demanded: twelve lords, who signed a protest against the bills being committed, were threatened with the Tower; but this angry motion was dropped on the lord Hollis desiring leave to add his name to the protest, that he might have the honour to suffer with the protesters. In the course of the controversy, sophistry and art on one side was exerted with all possible dexterity, and all that reason and good sense which the subject would admit of, was displayed on the other: the opposition, says Andrew Marvel, fought it out under all the disadvantages pos-



Aug. 1675. *fiblo* they were over-laid by numbers; the noise of the House was against them, and if not the sun, the fire-side, meaning his majesty, who always attended the debates in which he had a personal concern; nor being so few in number could they, as their adversaries did, withdraw to refresh themselves in a whole day's engagement; yet never was there a plainer proof that human eloquence is a dull thing when the bright truth discovers all things in their proper colours and dimensions.

A MOTION of a nature like this, after the suspicious measures which had been pursued by the court, it was to have been imagined would have occasioned an alarm sufficient not only to have rendered it abortive, but to have thrown disgrace on the mover and on the minister, under whose auspices the motion was made; but, on the contrary, the bishops, who thought themselves concerned in the test, had so much weight with the House, that all that the opposition could do, after so fatiguing an exertion of their parliamentary abilities, on a subject where the constitution of the government was so much on their side, was to mollify the test with the following salvo, "commissioned by him according to law, in time of rebellion and war, and acting in pursuance of such commission;" and the following amendment, "any alteration of the Protestant religion now established by law in the church of England."

THE test thus new-modelled, was carried by two voices only, in the House of Peers; and though it may appear improbable, that in the present temper of the House of Commons, they should be inclined to strengthen the hands of an administration which had given them such cause of disgust and

and jealousy, yet the conduct of that House had, in many Ann. 1675. circumstances, been so inconsistent; and matters of party where the church was concerned, had yet so great an influence over them, that, according to some writers, the leaders of the opposition did not care to trust to their discretion the issue of this important bill; and whilst the ferment occasioned by the test was the most violent in the House of Lords, one Dr. Shirley preferred a petition of appeal against Sir John Fagg, a member of the House of Commons. The Lords received the petition, and summoned Fagg to appear before them: Fagg complained to the House of Commons; the Commons espoused his cause, sent Shirley to prison; maintained that no member of their House could be summoned before the Peers; and farther asserted, that the Upper House could receive no appeals from any court of equity; and that it was contrary to Magna Charta for the subject to be tried by any but his Peers.

This assertion, which highly trenched on the jurisdiction of the Lords, and was contrary to the practice which had prevailed from the time of James the First, set the Upper House in a flame. Conferences were tried without effect; and four lawyers were sent to the Tower by the Commons for transgressing the orders of the House, and pleading on the subject before the Peers. The Lords denominated the commitment a breach of the great charter, ordered the lieutenant of the Tower to release the prisoners; and on his declining obedience, they applied to the king, and desired him to punish the lieutenant for contempt.

WHETHER this interruption to the concord between the two Houses was occasioned by accident, or design, it effectually



Ann. 1675.

prevented the triumph of the court on the subject of the test: the party in opposition, consequently, added fuel to the flame; and the courtiers, though in vain, used their utmost endeavours to extinguish it. On the Lords application to the king, he replied, that he was not satisfied how he could in justice punish the lieutenant; and summoning both Houses to Whitehall, he advised free conferences as the best means to procure a reconciliation; and assured them, that the present quarrel had arisen from the contrivance of his and their enemies, in the hopes to bring on a dissolution. The Commons thanked the king for the gracious expressions in his speech, but resolved that it did not appear, that any member of their House had contrived or promoted the difference; or in asserting the rights of the Commons, and the privileges of their representatives, had done any thing inconsistent with his duty and the trust reposed in him. It was farther resolved, *nemine contradicente*, that if any person shall be aiding or assisting in the execution of any sentence of the Lords, upon the appeal brought by Dr. Shirley against Sir John Fagg, he shall be adjudged and taken to be a betrayer of the rights and liberties of the Commons of England. By an order of the House, these resolutions were made public, by fixing them up in the lobby of the House, and in Westminster Hall; after which the Commons proceeded to resolve, that no person committed by order of the House, ought to be discharged during the session, except by the like order.

THAT the lieutenant had done his duty in receiving and detaining the four lawyers, and should have the protection of the House.

THAT

THAT the said lieutenant should not yield any obedience Ann. 1675  
to any writ, warrant, order, or command, to deliver the  
said prisoners, before he had first acquainted the House there-  
with, and received their direction.

THAT the thanks of the House should be given to the  
said lieutenant, for conforming his behaviour to the pleasure  
of the House.

THAT no Commoner committed by order of the House  
for breach of privilege, ought, by any writ of Habeas Cor-  
pus, or any authority whatever, be made to appear, or an-  
swer, or receive, any determination in the House of Peers,  
during that session.

THAT the order of the House of Peers for issuing out  
writs of Habeas Corpus, concerning the four lawyers, is in-  
sufficient and illegal; and that their Lordships be acquainted  
by message, that the said four lawyers were committed by  
order of the House for manifest breach of privilege, and in  
contempt of the authority of the House.

THE obstinacy with which the two Houses maintained  
their several pretensions, convinced the king that no fruits  
were to be expected from this session; and on the twenty-  
eighth of June, three days after his disregarded interposition,  
he prorogued the Parliament, as the only expedient to put  
an end to this furious and oddly-timed contention.

DURING the recess of Parliament, it was the principal bu-  
siness of the minister to put the disbursements on such a foot-  
ing, that the growing frugality of the House of Commons  
might



Ann. 1675. might the less affect his majesty, or disturb his council for the time to come. By a paper delivered in from the treasurer to the council, it appears, that the annual disbursements amounted to one million three hundred and eighty-seven thousand seven hundred and seventy pounds, and the revenue to one million three hundred and fifty-eight thousand pounds, which was clogged with anticipations to the amount of eight hundred and sixty-six thousand nine hundred and fifty-four pounds; and by a general account of all the receipts and issues in the Exchequer, it farther appears, that between the twentieth of June, 1673, and the twenty-fifth of June, 1675, four millions five hundred and twenty-nine thousand six hundred and forty-nine pounds had been received, and four millions five hundred and twenty-six thousand nine hundred and forty-five pounds discharged. After this scrutiny, a scheme of retrenchments, by which an annual saving was to be made of two hundred and fifty thousand pounds was adopted, and all imaginable expedients were put in practice, to advance the receipts of money in the Exchequer: even the smallest branches of the revenue were taken into consideration, and particular orders were sent from the lord-treasurer to the several officers, to know exactly what their yearly value was, how the same arose, how accounted for, and how far they were improvable.

From whatever motive this plan of economy proceeded, it is to be observed, that every species of frugality in a prince is laudable; and had it been early adopted by Charles, or steadily adhered to the remainder of his life, it might have preserved him from many shameful transactions, which have disgraced and blackened the administration of his government.

On October the 13th, both Houses met according to pro- rogation, when his majesty gave them to understand, That he had more than usual concern for the event of the sessions: he warned them to avoid debates similar to those which had occasioned the last prorogation: advised that if any thing of that kind should arise, to defer the discussion of the matter in dispute till such public bills were dispatched as might conduce to the good and safety of the kingdom: and particularly recommended to their consideration, whatever might tend to the security of the Protestant religion as by law established. After these admonitions, his majesty desired the assistance of the Parliament, as well to take off the anticipations of his revenue, as for the building of ships. And though the war, he said, had been the great cause of these anticipations, yet he had found, by a late account, which he had taken of his revenue, that he had not been altogether so good a husband as he might have been, and is he resolved to be for the future: yet he had the satisfaction to find, that the extravagancies in his own expences had not been equal to what some would have the world believe. "I am not ignorant," added his majesty, that there are many who would prevent the kindness of my Parliament to me at this time: but I as well know that your affections have never failed me: and you may remember, that it is now above three years that I have asked you any thing for my own use."

Ann. 1675.  
New sessions  
of Parlia-  
ment.

There was a time when a speech of such condescension from the throne would have more than ballanced every consideration of frugality in the Commons: but gracious expressions had been so often used without any visible sincerity, that they had lost all their effect.

THE



Ann. 1675.

Commons  
debated.

The Commons, after they had passed a vote against bribery in elections, entered into a scrutiny of their debts and charges which the people were called upon to make good; and by the result of the enquiry, it appeared, that the expence of the last two years war with the Dutch amounted, in the whole, to two millions and forty thousand pounds; and that the money given by Parliament, with what arose from the customs, what was gained by prizes, and the eight hundred thousand patacoons given by the Dutch, at least amounted to three millions and forty thousand pounds, from whence it appeared, that instead of the king's being run in debt by the war, he might have been a million in pocket. In the course of the debate on the subject of a supply, it was asserted, that the debts of the crown arose rather from the extravagancies of the court than from the necessities of the government: that by an honest and careful management his majesty's expences might be sufficiently supplied, and the anticipations, in the course of a few years, discharged out of his present revenue, without the assistance of Parliament, who were not obliged to pay the king's debts by taxing the subject. These arguments had sufficient weight with the House to carry, by a majority of four, a vote, not to grant any supply for the discharging the anticipations of the revenue.

ONE of the first steps to the dangerous greatness of the French monarch was the sale of Dunkirk, by which the invasion of Flanders was rendered practicable at all times. The second material advance of the French power was, the unjust war waged by England against the Dutch in 1665, whereupon followed the conjunction of France with Holland, and the opportunity which it gave Louis to purchase large ships of the Dutch, to build others in their ports, to lay the founda-

tion of a fleet, and to become, from this circumstance, a maritime power; an event regarded with so much indifference, or rather with so much approbation by Charles, who understood sea-affairs, and the art of building ships, as well almost as any of his subjects, that he not only suffered the exportation of naval stores from the port of London to France, sent over vice-admirals, and other considerable sea-officers, to accelerate the improvement of the French in the art of sea-fighting, trained the French seamen in the English fleets, and, from time to time, faithfully communicated to his dear ally all his own observations and experiments with those of the most skilful persons in the art. This mischievous conduct of Charles not all the blood and treasure spent by England in future wars has ever rectified, and so hopeful a pupil was Lewis, and such advantage did he take of this favourable conjuncture of circumstances, that from the state of the fleet, which was at this time given into the House of Commons, it appears, that the French were already become the greatest maritime power in Europe, viz. that the Dutch exceeded the strength of the English navy by fourteen men of war, and the French by twenty-six. On the consideration of this inferior state of the English navy, the Commons granted three hundred thousand pounds for the building twenty men of war; but they appropriated the sum by very severe clauses, and renewed the appropriating vote to annex the tonnage and poundage to the use of the navy.

Welwood's  
Memoirs.

In the last speech of the lord-keeper Bridgeman to the Parliament, he had assured them, that his majesty had entered into a treaty with France concerning commerce, in which he would have a singular regard to the honour and trade of the nation; but notwithstanding the union which



Ann. 1675.

Growth of  
Popery.

had taken place between the two kings, and that the co-operation of England was necessary to the success of Lewis's schemes; yet the fear of the Most Christian Majesty to preserve and increase the trade of his subjects was so tenderly considered by the English ministry, that no one step was made towards the putting commerce on an equal footing between the two nations: the English merchants when they presented their grievances from the French, were neglected; brow-beaten, ridiculed, and, says Andrew Marvell, might have found rather audience even from Monsieur Colbert. In resentment to the English nation, for the peace which they had, in a manner, constrained their sovereign to make with the States General, Lewis let loose his privateers among the English merchantmen; there was no security of commerce, or navigation: notwithstanding the public amity between the two crowns, the French privateers murdered, plundered, and made prize of all they met with; their picaroonies laid before the mouth of the rivers, hovered all along the sea coast, and took the vessels of the English in their ports: whilst the English ministry returned the compliment, by constraining the subject to enlist in the French service, and by emptying the magazines to furnish them with all sorts of ammunition.

On the information which the Commons received, that a treaty of commerce was now depending between England and France, they called for a state of the imports and exports; by which it appeared, that the difference to the disadvantage of England amounted to above one million a year; and that since the Restoration, every thousand pounds per annum had paid one hundred pounds to the crown.

AFTER

After the House had proceeded on a bill to regulate the commerce between the two nations, in pursuance of a motion which had been made by the Marquis of Winchester, in the last session of Parliament, for an oath of purgation, in respect to debts and rewards; a bill against libel was introduced and entered on their books. They voted it a grievance, that subjects of peace should be summoned before the council to answer what they did in their judicial capacity; and were proceeding to other matters, when an incident occurred which turned their whole thoughts towards humbling the Papists, and effecting a scheme which was desired by all wise and good men, but which had been hitherto baffled by the designing, the weak, and the interested; namely, an union among Protestants of all denominations.

One Luzance, who, from a French Jesuit, was become a convert to the church of England, in a sermon which he preached in the French church in the Savoy, had inveighed with great bitterness against the errors of the church of Rome, and afterwards printed his sermon. On this provocation Dr. Burnet, otherwise called father St. Germain, a Jesuit, and confessor to the dutchess of York, visited him in his lodgings; and having posted three men at the door, threatened to murder him if he did not make satisfaction for the injury, and speedily return to France.

In this situation Luzance promised to perform all that was required of him, and signed a formal retraction; but he had no sooner obtained his liberty than he told the whole story to Dr. Breval, a fellow convert, who repeating it to Sir John Reresby, the affair was communicated to the House of Commons; Luzance was ordered to attend, and in the

Ann. 1673.



Ann. 1673. contents of the examination, his answer, that the said St. Germain, in several conferences with him, had asserted, that the king was a Roman Catholic in his heart; that the same were endeavouring to get a liberty of conscience for the Papists; and was this intended in the space of two years most of the English should acknowledge the Pope: moreover, that the said Father St. Germain asserted, that he knew the king's intentions as to religion; and was sure his majesty would approve of all which he should do in the matter. That the said St. Germain laughed at the Dissenters, as being only a wave which had but a little time asserted, that nobody was more welcome at court, or had greater intrigues with the nobility than himself; that it was good sometimes to force people to heaven; and that there were an infinite number of priests and Jesuits in London who did God very great service. This evidence was attested upon oath: and on a second examination Luzence farther attested, that two French Protestants, being merchants of substance and credit, had been threatened by certain Papists, that if the English were not less severe on the sect, they would ere long see Protestant blood flow in London streets. The parties to whom these threats were made corroborated upon oath the truth of the evidence, and other such informations of the imprudence and insolence of the Papists, renewed all the former heat of the House on the subject of Popery. Many angry things were said; and on a motion of the duke of Buckingham, accompanied with a very sensible speech, leave was given by the Lords; and afterwards by the Commons, to bring in a bill in favour of Protestant Dissenters.

These proceedings began to alarm the court, who, turning the policy which the opposition had used the last session against themselves, on a sudden the matter of Dr. Shir-

by's petition against Sir John Fagg, was renewed; the Commons proceeded on the business with more violence than ever, and the speaker, who was of the privy-council, and in the pay of the court, going through Westminster Hall to the House, commanded his mate to seize several lawyers who had pleaded at the Lords bar, and led them up prisoners.

The lord Shaftesbury, in a very long speech, which he made on this occasion, and in which he accused the bishops of voting contrary to the most convincing arguments, in favour of the pretensions of the crown, and of being the inventors and brokers of all those doctrines which destroyed the force of constitutional limitations, made several apt observations which tended to shew, that the king favoured the pretensions of the Commons, in taking away the jurisdiction of the Lords.

DURING these debates in the Upper House, the Commons proceeded in resolutions of a similar kind to those which they had made in the last sessions of Parliament, on which the lord Mohun proposed, that the Lords should address the king to dissolve the Parliament.

The lord Mohun's motion gave rise to a vehement debate, in the course of which all imaginable arguments were used which could influence the court and the country to the measure: the king was flattered with the hopes that he might receive a large sum of money to pay his debts; the church was assured that her lands and dignities would be as safe in the hands of another Parliament as in this; the conduct of the present House of Commons was treated with the utmost severity; and, it was said, that they had never met without exciting apprehensions in all wise and good men. The advantage



Ann. 1675.

tage of short Parliaments were expatiated on; those happy times were referred to, when members constantly received their wages both from their counties and the boroughs, when the poorer boroughs petitioned to be excused from sending members; when laws were made in favour of the gentry, that corporations should compel none but the freemen of their own town to serve for them; and when in all the ancient returns of writs for knights of the shires, their sureties for their appearance were returned with them. It was represented, that the case was now so altered, that 1500 l. 2000 l. nay, 7000 l. was the price which men had paid to be entrusted: it was to be hoped, it was said, that the charity of those worthy persons, and their zeal for the public interest, had induced them to be at such an exorbitant expence; but that it would be much better to be otherwise, for there was a scurvy English proverb, "That men who buy dear, cannot live by selling cheap."

THE motion for addressing the king to dissolve the Parliament passed in the negative, by two voices only; and at the head of those members who were for the dissolution, was the duke of York, who apprehended much the effects of that spirit which had appeared in the present House of Commons, against the prevalence of Popish influence and principles; and who hoped; that by a confederacy with the other Non-Conformists, such a change might be made in the representative part of the legislature, as might pave the way for a general toleration. A protest, founded on truth, reason, and expediency, was entered on the books by the dissenting Lords; but no more than two-and-twenty had time to set their names to it; for the king, who had his reasons for retaining the present representatives, came to the House before the Lords were all assembled,

assembled, and prorogued the Parliament from November 22, Ann. 1675, to the fifteenth of February twelvemonth \*.

COFFEE-HOUSES, which in modern days are found so necessary to divert an hour of tedious time, and prove inimical only to private reputation, were regarded in so formidable a light by Charles and his ministry, that a proclamation was issued to suppress them. This act of power was every where exclaimed against as illegal, on which the opinion of the judges was demanded; who replied, That no person could retail liquors without a licence; and that the sessions could refuse a licence to whom they pleased. As the words of the law, which settled the excise, only objected to those who could not find security for the payment of the duties, and that coffee was not a liquor subjected to excise; the expedient of the judges did not satisfy the public, as to the legality of the measure, or incline them to part easily with what afforded such convenient opportunities for sauntering idleness; therefore his majesty found it the wisest counsel to yield to a petition of the coffee-men, who promised for the future to restrain all seditious discourse in their houses.

THE king of France having tried in vain to break, or weaken the confederacy, by unsuccessful applications to the prince of Orange, the king of Spain, the elector of Brandenburg, and the elector of Treves, found it necessary to exert every nerve of power to enable him to meet the numerous armies of the allies in the field; large commissions were given out for new levies; 25000 horses were, by a new treaty,

Campaign  
of 1675.

\* Act passed: An act for the better and more easy building the town of Northampton.

obtained



Ann. 1675. obtained of the Swiss Cantons; and by another with Sweden, that crown was engaged to make a diversion on the side of Pomerania.

WHILST his Most Christian Majesty was making these extraordinary preparations, the allies were not idle: the command of the Imperial army on the Rhine was given to Count Montecuculi, under whom Turenne had first studied the art of war; the Count de Monterey was recalled from the government of Flanders; the duke de Villa Hermosa, a man of a more tractable disposition, was appointed to fill the office; and the Count de Souches, who, in the last campaign had given the prince of Orange great umbrage, was sent into a government in Hungary.

In order to strike some considerable blow before the allies had time to collect their forces, the French took the field in Flanders with an army of 65,000 men, Lewis himself serving as a volunteer under the prince of Condé; yet these great preparations produced no other advantage but the taking of Huy and Limbourg, places of small consequence: every motion of the French was opposed by the prince of Orange, who had the command of a considerable army; neither side was willing, without a visible advantage, to hazard a general action, which might be attended either with the entire loss of Flanders on the one hand, or the invasion of France on the other: and things were in this situation when Lewis found himself obliged to detach a body of five thousand men, under the Marshal de Crequi, to enable Turenne to make head against Montecuculi, and to watch the motions of the duke of Lorraine, who was advanced up the Sarre, with the design to make a diversion on that side.

THE

THE scheme of operations which had been frustrated the last campaign, by the superior skill of Turenne, and the want of harmony among the allies, was again resumed by Montecuculi, who endeavoured by art and stratagem to mislead Turenne into the belief that his purpose was to lay siege to Philippsburgh. Turenne was not to be deceived, and by posting his army on the German side of the Rhine, he not only prevented Montecuculi from passing this river, but laid his plan in so manifestly a manner, that he obliged the confederates to come to a general engagement under the disadvantage of ground and season, when a random shot, which struck him on the breast whilst he was taking a view of the enemy, put a period to his life, and to all farther opportunity of displaying his consummate skill in the fatal science of military murder. The consternation of the army for the loss of this great general, was intrepensible, and the allies, who would have been glad to have compounded for a safe retreat, now lost all the hopes of gaining a complete victory; but they were, however, disappointed in these expectations. De Lorges, nephew to Turenne, succeeded his uncle in command, and by the aid of the English troops, who were placed in the rear, he had the good fortune to repass the Rhine without any considerable loss. The prince of Condé, who was second, if not equal to Turenne, in the rolls of military fame, was appointed to succeed him in command; the army in Flanders was entrusted to the duke of Luxembourg; and Condé, with the assistance of a considerable re-inforcement which he carried from Flanders, had the good fortune to defend Alsace from the Germans, who, after the retreat of Turenne's army, had invaded that province. He obliged them to raise the siege of



Ann. 1675. Hagenu, then that of Saberne, eluded all their attempts to bring him to a battle, and, by preventing their establishing themselves in Alsace, he constrained them to repass the Rhine, and to take up winter-quarters in their own country.

AFTER the death of Turenne, a detachment of the German army was sent to the siege of Treves, an enterprise in which all the confederates passionately concurred, on the reasons that it opened a passage into France; that it would assist the Spaniards in succouring Luxembourg, whenever it should be pressed, and the duke of Lorraine, in making an entrance into his dutchy. The important project of this siege was well conducted, and executed with vigour; it gave an alarm to the enemy; and Marshal Crequi, collecting an army together, advanced to Treves, with the view of forcing the confederates to raise the siege. On the advice of Crequi's motions, the confederates left a detachment to guard their lines; and, under the command of the dukes of Zell and Osnaburg, marched in quest of the enemy, and falling unexpectedly upon them at Consfarwic, put them to the rout. Crequi escaped with four attendants only; and, flinging himself into Treves, resolved to perish in its ruins, or, by a successful defence, regain the figure and importance he had lost. The desperate obstinacy of Crequi, and the tenacious valour of certain Scotch battalions, who made part of the garrison, enabled the besieged to stand on their defence, for the space of a month; but the garrison not thinking it necessary to die martyrs in the cause of Crequi's glory, at length sustained against his obstinacy, capitulated for themselves, and, because he refused to sign the capitulation, they delivered him a prisoner into the hands of the enemy.

THE

THE Swedes had occasion to repent of the venal treaty Ann. 1675 they had made with France, for they were not only driven out of the territories of the elector of Brandenburg, which they had invaded, but pursued into their own; and the king of Denmark, encouraged by their humiliation, joined the confederates, declared war against Sweden, concerted measures with the elector of Brandenburg for pushing the advantages which he had gained, and before the end of the year besieged and took Wismar.

After the prince of Condé had left Flanders, Binch was taken by the prince of Orange, and demolished; and to all these misfortunes against foreign enemies, Lewis had to struggle with domestic insurrections, occasioned by the oppressive taxes raised on the people for the support of the war. At Rennes, Nantes, Morlaix, Bourdeaux, Toulouse, and several other cities in France, the populace rose, refused to pay the new impositions, killed the collectors, burnt the public offices, and the houses of those inhabitants who opposed them. The duke de Chaulnes, after attempting rigour in vain, allured these unhappy desperadoes back to their allegiance with the hopes of pardon; but on the intelligence that it was but a feint to seduce them to submit, they re-assembled, to the number of 15000; committed several outrages on the nobility and place-men; elected a chief; and constituted a general: but having neither money, nor arms, nor provisions, nor one tenable place, nor discipline, or proper government, they were subdued on the first arrival of a military force. Numbers of them were executed, numbers fled the country, and his Most Christian Majesty was fully re-instated in the power of multiplying domestic oppression and foreign injury.



Apr. 1625.

The chevalier de Rohan, who was descended from the ancient dukes of Bretagne, had some time before this entered into a conspiracy with the Spaniards, to excite an insurrection in France: but before it could take effect, the intrigue was discovered, and the chevalier was beheaded in the court of the Bastille\*, as also one Madame Villars, and the chevalier de Pressac. The want of a fortunate conjuncture of circumstances, was highly favourable, if it did not preserve the government; for had the chevalier de Rohan been supported by so large a body as assembled in this insurrection, or the malecontents been directed by such a chief as the chevalier de Rohan, and the Dutch had been ready with their fleet to countenance the insurgents, the well-grounded discontent of its subjects would have given the court of France more trouble than the numerous confederacy of her foreign enemies.

As an equivalent for the loss of Franche Comté, Spain attempted the reduction of Roussillon; the Dutch entered into the concert; and by a particular treaty furnished a large fleet and a body of land-forces: but when all was ready for execution, the revolt of Messina obliged the Spaniards to give over the design on Roussillon, in order to preserve Sicily.

\* In a libel published against the duke of York, in the year 1679, it is asserted, but on what authority I know not, that the chevalier de Rohan's fate was owing to the treachery of this prince; for the chevalier de Rohan coming to England on the part of the persecuted Protestants in France, to engage the court in the intrigue, the king remitted him to his brother, who informed the French ambassador of his errand, and placed him behind the hangings of the room, where he heard the whole conversation.

As

on As de Ruyter thought himself obliged to conform to the Ann. 1673.  
 letter of his instructions, so much time was lost before the  
 Dutch fleet could obtain authority to co-operate in the re-  
 gulation of Messina; that previous to their coming before the  
 town, the French had taken the Messina under their protec-  
 tion, had furnished them with provisions, troops, and officers,  
 and had surprised the castle of Salvador, the Messina, whom  
 it was too late, regretted the change of their masters.

It was at this period that by a vigorous concurrence of Eng-  
 land with the allies, Charles might have regained the confidence  
 of his people, and the respect of all Europe; might have saved  
 England the being exhausted and beggared in the several foreign  
 wars which he has since undertaken, and, consequently, of  
 having been the property of other States; and might have  
 enjoyed the lasting reputation of setting effectual bounds to  
 the power of France. It must be acknowledged, that a very  
 fair pretext was offered for the breaking a former engagement,  
 by the refusal of a French Squadron to strike to an English ship  
 in the English channel; but Charles was so far from taking  
 the proper advantage of this circumstance, or of the critical  
 situation of Europe, that in the beginning of the year 1676,  
 he entered into a new treaty with France; in which, for the  
 consideration of a yearly pension, he obliged himself to  
 prorogue, or dissolve the Parliament, if it should endeavour  
 to force any treaties upon him contrary to the interest of  
 that crown. This infamous transaction was known only to  
 the duke of York, the duke of Lauderdale, and the earl of  
 Danby, who, fearing the resentment of Parliament, advised  
 the king to admit into his council the lord chancellor and  
 the rest of his ministers. This was refused by Charles for  
 very obvious reasons; and the earl of Danby, and even the  
 duke of Lauderdale, expressing great apprehensions on the  
 consequences.

1676.

New treaty  
 with France.  
 Dalrymple's  
 Appendix.



Aug. 1676. consequences of being personally concerned in the treaty, the instrument, drawn by the French ambassador, was copied by the king, and his private seal, with a cypher, affixed to his signature; whilst no other testimony was demanded of the king of France, than that in a billet written with his own hand, he would signify to Charles that he had signed and sealed with his private seal, the counterpart of the treaty.

This example, writes Rouvigny, will plainly show your majesty that all England is against your interests; and that there is only the king and the duke of York, who embrace them with affection, and have entered without hesitation into a tie which engages the king of England more than ever to your majesty's interests, and which will confirm his steadiness in a manner that his subjects, who have been surprised at it hitherto, may be so highly astonished as perhaps to conform for the future to their master's intentions. The foundations are laid to work upon a design which will be useful to England and France, in case it succeeds; and if it does not, your majesty's affairs in this kingdom will not be the worse. In the mean time, God grant peace to Christendom; the Parliaments are to be feared; and it is a kind of miracle to see a king, without arms and money, resist them so long.

By the repeated solicitations and offers of mediation from the court of England, all parties at length agreed to a treaty. Early in the preceding year, Nimeguen had been fixed on as the place of congress; but on the unreasonable objections of France, who, in refusing to give passports to the ministers of Lorrain, in the proper stile, discovered no intention to restore that dutchy, or Burgundy, or even to leave a good frontier

ties on both sides the Spanish territories in Flanders, all the allies, except the Dutchy, delayed sending their ambassadors; and as these refused to treat without the concurrence of the confederates, no progress was made in the negotiation.

Lewis had taken the field so early in the year 1676,

Campaign of 1676.

that he reduced Condé in Flanders before the allies had put themselves in a situation to oppose him; and having sent the duke of Orleans to besiege Bouchain, a small but important fortress, he posted himself so advantageously with his main army, as to hinder the confederates from relieving it, or fighting without disadvantage. The prince of Orange, after surmounting many difficulties to get up with the enemy, had the mortification to find that his industry served no other purpose than to make him spectator of the surrender of Bouchain. Lewis did not think it proper to attack the prince of Orange; and, leaving his army to the care of Marschal Schomberg, retired to Versailles. The prince of Orange, after his departure, laid siege to Maastricht; but meeting with an obstinate resistance, he was obliged, on the approach of Schomberg, who, in the mean time, had made himself master of Aire, to raise the siege.

The emperor, on the ill success of the last campaign, had displaced Montecuculi, and given the command of the army to the young duke of Lorraine, whose father died in the preceding year.

It was now resolved by the Germans to relieve the distresses of the elector Palatine, by the siege of Philipsburgh; but the duke of Lorraine finding a favourable opportunity to engage the French army under the duke of Luxembourg, before



1692

to England  
1691

before he was reinforced by detachments which he expected from Flanders; a battle ensued, in which Luxembourg would have met with a total defeat, if it had not been for the invincible courage of Sir George Hamilton, with the English and Scotch troops under his command, who formed an impenetrable barrier to the force of the enemy. Sir George was killed in the action, and the duke of Lorraine found means to post himself so advantageously, that with his cannon he commanded the enemy's camp; and by this means would have reduced them to great extremities, or forced them to fight under considerable disadvantages, if he had not at this critical period received positive orders from the emperor to give over all other pursuits, and apply himself wholly to the reduction of Philipburgh. On this the duke desisted, and on the sixth of June arrived in the neighbourhood of Philipburgh: the duke of Luxembourg followed, and made many attempts both to oblige the duke to raise the siege, and to throw in succours to Philipburgh. But being foiled in every enterprize, and his army wasted with the bloody flux, he was at length compelled to abandon Philipburgh to the imperialists, and the town surrendered on the ninth of September, the anniversary of its first falling into the hands of the French in the year 1644.

The successes of the confederates in the North were yet more important. The fleet of the Swedes was totally routed by Van Tromp, who had entered into the service of Denmark: by land, they had totally lost the duchy of Bremen, which was divided between the king of Denmark, the duke of Lüneburgh, and the bishop of Münster; and the elector of Brandenburg was on the point of driving them out of Pomerania.

THE

The success of this year, on the side of the French, Am. 1636. was principally at sea. Their fleet under the duke de Vivonne, which was sent to relieve Messina, in Sicily, was attacked by the joint squadrons of Spaniards and Dutch, under the command of de Ruyter; and though the French were worsted in the engagement, yet the gallant de Ruyter, whose courage, skill, conduct, and fidelity, had so highly contributed to the preservation of his country, was killed. This alone was thought more than equivalent to a victory; and it served as a complete overthrow to the Dutch and Spanish fleets at Palermo, where they lost twelve capital men of war, besides their gallees and fire-ships, seven hundred cannon, and five thousand men; by which the French, to the amazement and terror of all Europe, became masters of the Mediterranean, reduced Taormina, St. Alexis, le Crafs, Savona, and Scaletta; encouraged seditions at Naples, Palermo, Syracuse, and several other places; and endangered the revolt of all Naples and Sicily.

With these disasters the Spaniards were distracted with domestic dissensions, between the parties of the queen-regent and don John, natural brother to their young sovereign: yet did not this gallant nation, who are remarkable for a steady inflexibility in their counsels, betray any symptoms which might encourage the French to hope that the treaty would be concluded on any terms less favourable to the safety of Germany than the treaty of the Pyrenees; and though the French king had at length yielded the point in dispute concerning the duke of Lorrain, yet neither the Spanish minister, nor the ministers of the German confederates, attended the congress, till the Dutch, whose recent disaster had sufficiently tired them of the war, who were loaded with debts,



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harassed with taxes, and under the disadvantages of a languishing commerce, clamoured for a peace, and declared, that if the allies did not respectively dispatch their ministers to the congress within the time limited by the French, they would enter upon the treaty themselves.

Dalrymple's  
Appendix.

AT the period in which the private treaty was made between the courts of England and France, both the Dutch and the Spaniards were earnest in their solicitations to Charles, that he would join in a treaty for the protection of the Netherlands: this his majesty communicated to the French ambassador, with an assurance, that he would never sign any treaty with these States, to which Lewis did not give his consent. Notwithstanding the article of treaty with the Dutch, and the king's repeated promises to the prince of Orange, he declared his intentions, that the troops in the French service should be recruited as long as they were necessary, and whilst he was acting as the mediator between the hostile powers, he gave France intelligence of the views of her enemies, and in particular of the anxiety which the Dutch, and even the prince of Orange, had expressed for a peace.

On this item Lewis exerted all the arts of intrigue, to disunite a confederacy which was too powerful to be overcome by force: he set his emissaries to work in Holland, with offers of such a regulation of commerce as the Dutch should desire, the restitution of Maestricht, and full satisfaction for all the claims and losses of the Stadtholder. D'Estrade and Colbert, the French ministers at the congress, overwhelmed Sir William Temple, who was there in the same character, on the part of the king of England, with compliments and promises; and authorised him to offer the prince of Orange  
a carte

a carte blanche for himself, if he would use his authority with the allies to accept of terms favourable to the views of France. Sir William Temple had the virtue to withstand the bribe; and to the instances which were made to the prince of Orange, his highness returned this heroic answer, "Let them find a way to save my honour, by satisfying Spain, and no concern of mine shall retard the peace a moment."

VAN HAREN, one of the Dutch ministers at Nimeguen, complained to Sir Lionel Jenkins, who, with the lord Berkeley, were joined in the commission with Sir William Temple, of the advantages which arose to the French from the trade with England, towards enabling them to carry on the war; and observed how easily the present pride of France might be humbled, if the government of England would join with the Dutch, and employ only ten men of war to stop any one port, whilst they did the same by others: but whilst the friendship and connivance of Charles was a circumstance so necessary to the views of the king of France, whilst this prince was acting in concert with Lewis, at the expence of the allies, this monarch paid so little regard to his peace, his reputation, or the honour of his government, that he still continued his depredations on the English, to the insufferable grievance of the merchants; and, notwithstanding the reports of the lords of the committee of trade, which tallied with the complaints of the subject, no retaliation was suffered, or any vigorous or adequate measure taken to oblige his Most Christian Majesty to act agreeable to the laws of justice, or the rules observed in the courts of admiralty in England \*.

Ralph's Review.

\* The brave Lockart, who had gained a high reputation in the service of the republic, was at this time Charles's resident in France; and having received orders to demand an English ship, which had been taken



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Dalrymple's  
Appendix.New sessions  
of Parlia-  
ment.Marvel's  
Growth of  
Popery.

THE five hundred thousand crowns, which Lewis had given to Charles, effectually deprived the allies of the assistance of an English armament in the campaign of 1674; the secret pension in the beginning of the year 1676, enabled Lewis to push, without molestation, on the side of England, the fortunes of the campaign of 1676: but in the beginning of the year 1677, the clamours of the nation growing loud for a meeting of their representatives, a war with France, and an alliance with Holland, an additional sum of money was remitted from France, to enable the English minister to gain a majority in the Parliament, which it was at this time thought necessary to assemble: and such was the reliance on the success of the bribery, that on the fifteenth of February, the very day the session was to be opened, the French king appointed his march for Flanders; as if, writes Andrew Marvel, his motions were in just cadence; and that, as in a grand ballet, he kept time with those who were tuned here to his measures, and he thought it a becoming gallantry to take the rest of Flanders, our natural outworks, in the very face of the king of England, and his petites maisons of Parliament.

THE king's speech on the opening the sessions, was artful and plausible; he assigned the cause of so long a prorogation

by a French privateer, pressed the matter so effectually, that dispatches were sent from the court of France for a disabuse; but before these commands were executed, the king gave up the point to the French ambassador; and told him, that he did not concern himself in the ship, and that he believed merchants were rogues, and could bring witnesses to prove whatever they had a mind to.

It was with some difficulty that Lockart was prevailed on to keep his post after this affront.

Barnes's History of his Own Times.

to

to the late differences between the two Houses, declared, that Ann 1677.  
he came prepared to give them all the satisfaction and security, in the great concerns of the Protestant religion, as established in the church of England, which should be reasonably asked, or was agreeable to Christian prudence; as likewise, what farther security for liberty and property as should be proposed, or could consist with the safety of the government. His majesty cautioned the assembly to avoid all causes of difference; made a sort of appeal to the public, who was most for arbitrary power, those who fomented such differences as tended to dissolve all Parliaments, or himself, who would preserve all Parliaments from being useless by such dissensions; proceeded to give information of the decayed condition of the navy; asked money for repairing it; also for the continuation of the additional excise, which was to expire June the 24th; also a reasonable supply to make his condition more easy, and ended his speech with the following words: "You may at any time see the yearly established expence of the government, by which it will appear, that the constant and unavoidable charge being paid, there will remain no overplus towards answering those contingencies which may happen in all kingdoms, and which have been a considerable burden on me this last year."

WHAT the king had said so well, says Andrew Marvel, the lord chancellor, as usual, spoiled, by straining to do it better; and had not the lord treasurer used a far more effectual way of persuasion with the Commons, there had been the same danger of the ill success of this meeting as before: but what perhaps gave more than usual strength to the forcible arguments which the earl of Danby had been enabled to make, with the assistance of the French king, was an un-

lucky



Ann. 1677. A lucky question, started in each House, but debated only by the Peers. Whether the Parliament had any right to enter upon business at all, and whether they were a legal Parliament? It had been enacted, by a law of Edward the Third, that Parliaments should be held once every year, or oftener, if need be: the last prorogation had been longer than a year; and being supposed on that account illegal, those of the opposition who had more heat than judgment, laid hold on the occasion to get rid of a Parliament which they regarded as too venal to resist long the intrigues of the court. The Non-Conformists, also, beheld with fear and resentment, an assembly from whose liberal spirit they had suffered an unremitting persecution: many pamphlets were written to persuade them that it was their duty to conform to the desires of the people, and the dictates of those statutes by which the constitution could be alone preserved: one of these was written by the lord Hollis, and great numbers of people attended on the opening the sessions, to back the force of argument with the force of importunity. The considerate men among the malcontents, and those who knew the temper of the House, and that the very threat of a dissolution had often influenced their votes, endeavoured to divert the party from an attempt which, by uniting the interests of the members with the interests of the court, would engage the Commons to comply with all its demands. The event proved the superiority of judgment in those who were against the measure, for the duke of Buckingham, the earls of Shaftesbury, Salisbury, and Wharton, having insisted strenuously in the House of Peers on the invalidity of the Parliament,

ment, and, consequently, on the nullity of all its future acts, they were, for such dangerous positions, as they were termed, sent to the Tower, there to remain during the pleasure of his majesty and the House.

On this occasion, according to bishop Burnet, the duke of Buckingham and the earl of Shaftesbury desired to have their own servants to wait on them, and named their cooks first, which his majesty highly resented. However, Buckingham, Salisbury, and Wharton, made submissions, and were soon released; Shaftesbury sought the remedy of law, but his plea being rejected by the judges, he was at length, after a twelve-month's imprisonment, obliged to make the same submissions, and on these disgraceable conditions, obtained his freedom. One Dr. Cary was questioned at the bar of the House of Lords, concerning a manuscript treaty of the legality of the prerogative, which he had carried to the press; and because agreeable to the authority of the laws, which require no man to accuse himself, he declined answering certain questions which were put to him, he was fined one thousand pounds, and confined a close prisoner in the Tower till it was paid.

Two rigorous examples which had been set by the Peers, deterred the members in the Lower House from proceeding on these dangerous grounds: but they manifested their resentment at the disappointment, on the occasion of a debate concerning libels and pamphlets; in which one member said, that it was affirmed to him by a person who might be spoken with, that there were among them thirty, forty, fifty, God knows how many out-laws; another said, that it was reported, that there were divers of the members Papists; and a third, that a multitude of them were bribed and pensioned. These rough



Ann. 1677. A rough sketch was partially drawn by the poet, as charged to which no reply could be given, and their separation in the case of Mr. Harrington, the son of a cavalier, who had suffered much in the royal cause, is, perhaps, a stronger proof as can be given of the truth of the accusations. On this subject, according to Bishop Burnet, the Duke of Mr. Harrington had been in company with two Scottish men, who had been pressed, that they had been pressed out of Scotland into the French service, and that there were several hundreds of their countrymen who had been forced from their families bonds together, and the galley slaves, forced in the port of the Duke of Devonshire on ship board, and transported into the service of France, contrary to the declaration of Parliament, and the public promises and proclamations, and the rights of justice. Harrington, first with a desire of recovering his innocence, and putting a stop to the supplies which were sent to France, brought these Scottish men to several members of Parliament, to whom they gave the same account, and saying that the deavours might be used to corrupt them, he carried them to a master in chancery, who took their depositions on oaths. This transaction was hardly finished, when Mr. Harrington was seized by a messenger, carried before the king and council, and accused of suborning witnesses to disturb his majesty's government: he was treated roughly in the course of his examination, by the chancellor and the treasurer, and upon the issue was committed close prisoner to the Tower, debarred the use of pen and ink, the access of his friends, and confined in such a place over the Tower ditch, as threw him into a dangerous sickness, in which he was denied the assistance either of physician or divine. On

On a petition being presented to the Commons, in favour of the prisoner, he was sent for, and gave the House a clear account of the matter, and of his behaviour at the council-board. One of the Scotch soldiers absented himself, and the other denied or misrepresented what he had sworn: however, several of the members attested voluntarily, that these men had affirmed the same to them\*; and it is no doubt, that if the House had been in a temper to attend to private injuries and popular complaints, Mr. Harrington would have found an ample redress, and a proper inquisition on the subject would have been set on foot: but present circumstances were so unfavourable to the prisoner, that, on Mr. Secretary Williamson's insisting upon his uncivil demeanour towards his majesty, whilst he was under examination, the prisoner found no countenance, and might, says Marvel, thank God, that he escaped again into close prison. But his persecution did not stop here; for, the court not being able to procure any legal charge against him, on the grounds of the subornation, he was accused by three infamous and needy informers of having spoken seditious words, fined 1000 l. and committed prisoner to the King's Bench: he afterwards fled the kingdom, to avoid the effects of the treasurer's resentment, on the provocation of having committed his case to the consideration of the public; and, under the mortifying circumstances of banishment, had full oppor-

\* The truth of this matter was afterwards ascertained by several other soldiers, who had deserted the French service, and by farther accounts from Scotland, which brought intelligence that the public jails and the castle of Edinburgh were given to the agents of France, to secure the men which they had pressed, or importuned, into their service, till ships were got ready for their transport; and some who were put in prison for frequenting conventicles, were, by order of council, delivered to their officers. *Ralph. Burns.*



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tunity either to repent the warmth of his zeal, or to enjoy that conscious satisfaction which is constantly regulated by the influence of right principles, ever affords the truly wise man.

THE Commons were now in a very delicate situation; the fear of losing their seats rendered it necessary to preserve terms with the court; and they did not care to forfeit all their credit with the people, on the apparent necessity of augmenting the navy, they voted five hundred and eighty four thousand pounds; and though they made the officers accountable to them for its use and application, they did not accompany it, as before, with a bill to appropriate the tonnage and poundage for the use of the navy. They also gratified the king with the additional excise, for three years, but had the prudence or the moderation to reject a bill which had been sent down by the Lords for the farther regulation of printing-presses, and the suppressing all unlicensed books, in which was a clause for the breaking open all houses whatsoever, where it was suspected any such books were concealed: altho two other bills, the one entitled, An act for securing the Protestant religion, by educating the children of the royal family, and providing for the continuance of a Protestant clergy; and the second, An act for the more effectual conviction of Popish recusants. What was the sense of this last act, is no where particularly told or described: However, one member having stood up and unmasked it effectually, it was rejected with scorn: that for securing the Protestant religion, &c. was called by one party, a bill against Popery, and by the other, a Popish bill; because, under the pretence of educating the children of the crown in the Protestant religion, it admitted the kings of England to be successively Papists, without other retrenchments on their prerogatives than the devolving to the bishops the power of filling those

ecclesiastical preferment which were in the gift of the chancellor. This bill had the same ignominious fate as the other, & was rejected. An ~~address~~ the more effectual conviction, &c. it being a second time ~~read~~ and committed; and it was certainly such a compromise between the duke and the church, as plainly shews, that his royal highness had an early sense of the difficulties which were likely to attend his right of succession.

Whilst the public business was thus carrying on in Parliament, without any interruption from that discord between the two Houses which had distinguished former sessions, the Commons were roused from their tranquillity by the intelligence received from abroad, that Valenciennes had fallen into the hands of the French: they addressed the king, and, after representing the danger to which the kingdom was exposed from the possession of France, they intreated his majesty, by such measures as he should think fit, to secure his own dominions, and the Spanish Netherlands, and thereby quiet the fears of his people. The king, to elude this application, replied in general terms, that he would use all means for the preservation of Flanders, consistent with the peace and safety of his kingdom: this was construed by the House as a civil denial, and gave rise to another address, in which in a manner more explicit, they intreated his majesty to enter into such alliances as might curb the power of France, and promised to assist him with such aids and supplies, as, by divine assistance, might enable him to prosecute the object of their desires with success.

Success of  
the French  
arms in  
1677.

This address was carried up to the throne on the thirtieth of March, but no answer was given till the eleventh of April; and in the mean time fresh advices brought the terrifying news, that Cambray and St. Omer had undergone the same



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fate as Valenciennes; that the prince of Orange, who had hastily assembled an army, and attended to the relief of the last town, had been defeated and obliged to retreat to Utrecht; and that the French troops in Germany had broke into the provinces on the other side of the Rhine, and laid waste all before them. These accumulated disasters, which exposed the Spanish Netherlands to apparent danger, and ultimately Holland, and, consequently, rendered his Most Christian Majesty very formidable to the safety of England, alarmed the whole nation, except the king, who coldly replied to the Commons' last address, that, upon some alterations abroad, he thought fit to put them in mind, that the only way to prevent danger to these kingdoms, would be to put him in a condition to make preparations for their security.

Mr. Henry Coventry, who had been gratified with the office of secretary, on the merit of having officially dissolved the Triple-Alliance, by the success of his Swedish embassy, and who had since assured the Commons, that if the king had persevered in the articles of that alliance, it would have ruined the kingdom, was the man who delivered this message to the House; which, on the very sufficient reasons the court had given for distrust, was little relished. It was said by the popular members, that the king's revenue was greater now than when he carried on a war against France and Holland jointly; and that Ireland was able to take care of itself; that his majesty did not speak out, did not say he would form the alliances required; that, as long as there was any reserve on his side, they had no clear grounds to grant money for preparations on theirs; that a suspicion prevailed, that some of the king's ministers were under French influence; and that it was necessary his majesty and his people, should come to a mutual confidence, as the only way to extinguish jealousies.

issues. To the stale objection, that secret purposes ought not to be exposed to a public assembly, it was replied, that the matter did not require secrecy; for if the king would take a great resolution, and put himself at the head of his Parliament and people, in this weighty and worthy cause, a flying post might carry the news to Paris, and let the French king do his worst. The great supplies given to the king on former occasions were urged as substantial reasons for his majesty to rely on his Parliament, whom, it was said, would not stick at this or that sum, but would go with their sovereign to all extremities. The issue of this long debate was, the proposal of an addition of two hundred thousand pounds, to the sum which had been already voted; and a promise to re-imburse whatsoever his majesty should expend in extraordinary preparations; as also to furnish him with so large a proportion of assistance and supplies as might give his majesty, and the whole world, an ample testimony of the loyalty and affection of his Parliament, and as might enable his majesty, by the help of God, to maintain such stricter alliances as he should have entered into against all opposition whatsoever.

THE Commons justly considered the additional sum of two hundred thousand pounds, with a parliamentary assurance of a farther supply, an encouragement sufficient at least to form the necessary alliances; a circumstance which, of itself, would, in all probability, procure a good peace to Europe, by lowering the pride of Lewis, and confounding those expectations which were solely grounded on the pacific measures of the court of England: but Charles had his reasons for considering matters in a different light; he gave the Commons to understand, that without the additional sum of six hundred



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THE Commons excused themselves from complying with this peremptory demand, on the pretence that many of their members, in expectation of an adjournment before Easter, were gone into the country, and they did not think it parliamentary to take upon them the granting money in a thin House: they desired that their adjournment might be short; that his majesty would, by his royal proclamation, command the attendance of all their members, at the next meeting, by which time they hoped he would have so formed his affairs, and fixed his alliances, that he would be able to impart them to his Parliament, and they no ways doubted but his majesty would then meet with the compliance he desired, in confidence whereof they hoped he would be encouraged to speak and act such things as might attain those great ends which the House had formerly represented to him. On the reception of this address, the king came suddenly to the House of Peers, and, having given his assent to such bills as were ready, the Parliament, according to the usual forms, were adjourned from the 16th of April to the 21st of May.

• Acts passed: An act for raising the sum of five hundred eighty-four thousand nine hundred seventy-eight pounds two shillings and two pence halfpenny, for the speedy building thirty ships of war.

An act for an additional excise upon beer, ale, and other liquors, for three years.

An act for prevention of frauds and perjuries.

An act for erecting a judicature to determine differences touching houses burnt and demolished by the late dreadful fire in Southwark.

An act for taking affidavits in the country, to be made use of in the Court of King's Bench, Common Pleas, and Exchequer.

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the court

DURING the interval of this recess, several circumstances happened which increased the well-grounded distrust the Commons had entertained of the king: his majesty had the imprudence to tell Don Bernard de Selinas, the Spanish ambassador, that the authors of the addresses against France were a company of rogues; and his excellency having made no secret of this declaration to his friends in the House of Commons, he was ordered to depart the kingdom. The Most Christian King had made no scruple to give out in his discourses, that if the Spanish Netherlands were to be wholly lost, England would not arm one man of war to oppose it; and, what is still more extraordinary, the adjournment had scarce taken place, when a pompous embassy arrived in England from France, consisting of the duke de Crequi, the archbishop of Rheims, Monsieur Barillon, and a train of three or four hundred persons of all qualities: they were magnificently entertained by the king at Newmarket; and, besides their more secret instructions, brought a letter with proposals of a long truce, in case the Swedes would agree to it. A copy of these proposals having been communicated by the French ambassadors at the congress, the proposals were regarded as a snare, to disarm the allies, and were treated accordingly.

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An act for the naturalizing of children of his majesty's English subjects, born in foreign countries, during the late troubles.

An act for the better observation of the Lord's day, commonly called Sunday.

An act for confirming and perpetuating augmentations made by ecclesiastical persons, to small vicarages and curacies.

An act for taking away the writ *De Hæretico comburendo*.

An act for the better repairing and maintaining the pier of Great Yarmouth.

An act for the better observation of the Lord's day, commonly called Sunday.



Jan. 1677. When the Parliament re-assembled, the business agitated at the last meeting was opened by a verbal message from the king, by Mr. Secretary Coventry, with an intimation that the Commons had no time to lose, as his majesty did intend that there should be a recess very quickly; but the House still keeping firm to their resolution of parting with no more money till the necessary alliances were formed, and having ordered a committee to consider on a bill to recall the English and Scotch out of the French service, they were sent for to attend at Whitehall, where the king told them, that, on his royal word, they should not repent any trust which they should repose in him for the safety of his kingdom; that he would not, for any consideration, break credit with them, or employ their money to other purposes than those for which they intended it; but that he would not hazard either his own safety, or their's, by taking any rigorous measures, or forming new alliances, till he was in a better condition to defend his own subjects, and offend his enemies.

This speech, which brought affairs to a short issue, put the Commons on the necessity of either running the risk of losing their money, or of declaring to all the world the highest distrust of their sovereign. It must be owned, that the question was puzzling: the Commons were perplexed; but after due consideration, the latter measure was adopted, because less dangerous to their own credit, and the welfare of the nation; and an address was sent up to the throne, in which it was declared unparliamentary to grant supplies for maintenance of wars and alliances before they were signified in Parliament; in which his majesty was desired to enter into a league, offensive and defensive, with the States General, against the growth and power of the French king, and for the preservation of the Spanish Netherlands; and to make such

such other alliances with such other confederates as his majesty should think fit and useful; to that end, and in which all the former promises made by the House were renewed, relating to the giving such speedy supplies and assistance, as might fully answer the occasions.

The terms of the address were as moderate and respectful as if his majesty had conducted his government on the whole and the justest measures: there were no allusions to any former misconduct in the administration: the prayer which it contained was authorized by a variety of precedents, in which the representatives of the people had advised such wars and alliances as were thought necessary for the welfare and the safety of the kingdom; yet his majesty affected to represent it as a dangerous encroachment on his prerogative, reproved the Commons in severe terms, and ordered them to be immediately adjourned.

It had always been the custom of Parliament to adjourn themselves, unless the adjournments had been made under the special commission of the great seal; and this privilege was now granted to the Lords: but some members of the Lower House, on their return from Whitehall, rising up, possibly to express a sense of the rough treatment they had met with, Mr. Edward Seymour\*, who, on the sudden illness of Sir John Chariton, had served as speaker to the Parliament from the period when that gentleman was first elected to the office,

\* The son of the Mr. Edward Seymour, who served in the office of speaker in that session of Parliament, in which the earl of Clarendon was impeached, and who had great quarrels with the court in the place he took against that unfortunate minister.



Aug. 1677. took upon him the business of dictator, by insisting vehemently, that after the king had required the House to adjourn, there was no more liberty of speaking. This was contested, and those who stood up demanded still to be heard, when the speaker had the confidence, says Marvel, and without any question put, to pronounce the House adjourned; and therewithal stepped down in the middle of the floor, leaving the members astonished at so flagrant a violation of their inherent privileges: nor was this the only symptom of that displeasure which the Commons had incurred, they had the additional mortification of seeing the king's reproving speech published in the Gazette of the next day, being the first which had ever appeared in that paper. Thus, observes the same writer, were the Commons well rewarded for their inch of perpetual sitting and of acting, the Parliament being grown to that height of contempt as to be gazetted among run-away servants, lap-dogs, strayed horses, and highway robbers.

The additional sum of money sent from Lewis to Charles, in the beginning of the year 1677, to enable this prince to soften the opposition to his measures by the influence of bribery, sufficiently accounts for the conduct of the Parliament before the alarms from abroad had given the anti-courtiers too great an authority with the House, and too great a credit with the nation, to be easily resisted, and agreeable to the alterations which were daily visible in the temper of the Commons. Courin, the French ambassador, had orders to rise in his offers to Charles; and on the 12th of June, 1677, a proposal was made to the king of an yearly pension, with the assistance of forces from France, to maintain his authority on the consideration of a prorogation, or dissolution of the Parliament. After a variety of conferences between

between the treasurer and the ambassador, in which the former endeavoured to raise the price to 800,000 crowns, and the latter to keep within the bounds of the original sum offered, the ambassador, by the extraordinary earnestness of the duke of York for the conclusion of the treaty, gained the victory. It was stipulated on the one side, that by the exertion of the power of adjourning, proroguing, and dissolving, the Parliament should be no interruption to the progress of the French arms; and that Charles should positively declare to his allies, that no consideration whatsoever should be capable of engaging him in the war: on the other, that Lewis should gratify the king with an yearly pension of two millions of livres.

WHEN the bargain was thus struck to the satisfaction of both parties, it met with some interruption from the officiousness of Mr. Montague, who having got into the secret of these intrigues, endeavoured to raise his credit with his master, by raising the price of his prostitution. He represented, with great earnestness to both courts, that the king of England was not paid a sufficient price for the part he acted: that several petty princes had been gratified with larger sums, and so effectually terrified the court of France with the threat of forming an alliance against her, that he brought the ministers to consent to the encreasing Charles's pension to the sum of two hundred thousand pounds, when, to his great astonishment and vexation, he heard the bargain had been privately concluded between the royal brothers and the French ambassador, for the sum of two millions of livres. This opened a fresh correspondence between the treasurer Danby and Mr. Montague, in which the latter was ordered to insist on the sum of two hundred thousand pounds.



Ann. 1677.

Charles condescended so low as to assert, that he had not rightly comprehended the difference between French and English money; and conducting the French ambassador, who expostulated with him on the matter, to the door of the chamber, which he opened himself, he said, "I am so ashamed, that I cannot speak any more to you on the subject; go see the treasurer, for he has made known to me such large wants, and so great a necessity in my affairs, that I cannot believe the king, my brother, will leave me in this embarrassment\*."

DURING these transactions, negotiations were carried on between France and Holland. This commercial people had long suffered, with impatience, the length of a war, which exhausted their treasures, and which deprived them of the means of acquiring wealth: they had regarded, with a jealous eye, some attempts of their stadtholder to enlarge his authority †, and they wished to limit his power to narrower

\* Mr. Hume, one of the most ardent apologists for those errors in the administration of the family of the Stewarts, which have been very severely animadverted on by others, is pleased to acknowledge, in the last edition of his History of Charles the Second, published after the appearance of Sir John Dalrymple's Appendix, from whence these facts are taken, that the secret treaties between Charles and the court of France, render his royal word solemnly given to his subjects, one of the most dishonourable, and the most scandalous acts that ever proceeded from a throne.

† Whilst the prince of Orange was at Guelderland, to settle the magistracy agreeable, to the right of his office of Stadtholder, the deputies of the province unanimously made him an offer of the sovereignty of their country, which, they pretended, had been formerly invested in some of his ancestors: the prince demurred upon the offer, and asked the advice of Holland, Zealand, and Utrecht: the last province prompted him

to

Animals than their war establishments would admit. It was Aug. 1677. also with no small concern that they saw the trade of England flourishing, by the misfortunes of her neighbours; and finding it impossible to engage Charles to take an active part in the war, or even to observe a strict neutrality, they gave their ambassador orders to conclude an eventual treaty with France, by which the difference between the two nations were to be adjusted, provided they could satisfy their allies on both sides.

The French not only found means to keep the army of the allies, under the duke of Lorrain, at bay, but added to the successes which they had obtained in the beginning of the year, the town of Fribourg, in Brisgaw, and had the good fortune to preserve Charleroy from the prince of Orange, who, notwithstanding the invariable warmth he had shewn in supporting the war, which he singly seemed to animate, was much condemned for raising the siege, and retreating before the duke of Luxembourg; and it was asserted by the confederates, and even in Holland, that the design was given over upon an interested intelligence between the stadtholder and the king of England. The Spaniards complained that the

to accept it; the second openly dissuaded him, and before Holland could come to a resolution, the alarm through the States General was so great, that his royal highness saw reason to decline the offer: however, he was accused of having been the deepest in the intrigue. It was the common voice of Amsterdam, That it was better to be under the subjection of the crown of France, than of an absolute sovereign at home. In a few days, there were above three hundred thousand pounds drawn out of the bank of this town; the East India actions fell above thirty, and those upon the cargoes of Holland fell from one hundred to seventy-five, which was five lower than at the most desperate crisis of the war against the united powers of France and England. *Rapin's Review.*

attempt



Jan. 1677. attempt on Charleroy cost them three millions of florins; the Imperialists, that in keeping the French army under de Cœqui in play, they had sacrificed ten thousand men; and the Dutch, that they ran out more and more every year in the prosecution of a war which could never make them suitable returns. According to the intelligence given in a letter from Mr. Bentinck, to the treasurer Danby, it would have been the highest degree of imprudence in the prince of Orange, to have proceeded with the enterprize, or to have engaged the enemy under the imminent disadvantages to which he was exposed; but the suspicions arose from the lord Offory's happening to arrive in the camp the day before that council of war was held, which determined on the raising the siege.

The campaign of 1677, proved as unfortunate to the Swedes as had been those of the preceding years. The Danes obtained a considerable victory over them by sea; the confederate forces gained advantages by land; and after a long and obstinate siege, the elector of Brandenburg made himself master of Stetin.

The prince of Orange, whose ambition had been much disappointed by the untoward events of the war, and the tenacious sense which the Hollanders entertained of independent liberty, turned his thoughts and pursuits towards an alliance which, when in a manner offered to his acceptance, he had received with some degree of indifference.

Temple's  
Memoirs.

SIR William Temple, the prince of Orange's great friend and panegyrist, was the confidant whom the prince thought proper to trust in this interesting business; and after intimating his intentions to pay his addresses to the lady Mary, he asked  
Sir

Sir William whether her highness had sufficient conformity Ans. 1677. of temper to accommodate her behaviour to the pleasure of a husband? and, secondly, whether it was worth his while to disoblige his friends, the malecontents in England, by allying himself, contrary to their advice, yet nearer to the royal family? The first question Sir William Temple answered in the affirmative; and on the second he satisfied the prince's doubts, by asserting, that it was a great step to be one degree nearer to the crown, and in all appearance the next; and that his friends were not in a capacity to give the crown the disturbance they imagined.

It was fortunate for the success of the prince of Orange's views, that the earl of Danby, who had gained a great ascendancy over the king's temper, had, from the first entering on the office of minister, cultivated his friendship and patronage with the most sedulous attention, in the double view of gaining his party in England, and to form a balance to the French interest in the cabinet council, which was continually pushing him on the necessity of losing his place, or risking his head. It was on these grounds that the treasurer acted in concert with Sir William Temple, who was at this period of time in England in pursuit of the secretary's office, which Mr. Coventry had thoughts of resigning; and that in the midst of the highest ferment of the House of Commons, the project of the prince of Orange's journey to England was communicated to the king. The king at first discouraged it, and civilly expressed his wishes to Mr. Bentinck, the prince of Orange's agent, that his highness would first think of making the peace, and defer his journey till it was concluded. This was firmly refused by the prince, who, however, continued his instances with the lord treasurer, for leave  
to



Ann. 1677. to come over; and so irremittable were the importunate solicitations of this minister, that at length the point was carried, and the prince arrived at Harwich October the 9th.

It is apparent, that the visit was granted with a view very different from the intentions of the person who so warmly solicited it; and which of the two, the uncle or the nephew, had the best reason to depend on their skill in consummate policy, the event will manifest. When the prince had seen the lady, who has an agreeable person, and was at this time in the meridian of her youth, he declared himself sufficiently enamoured to desire her for a wife. The king, from his experience of the power of love, thought his nephew was caught in the snare, and insisted peremptorily on the conclusion of a peace, prior to the marriage. The prince as peremptorily refused, and observed, that his allies, who were likely to have hard terms, as things then stood, would be apt to believe, that he had made the match at their cost; and that for his part he would never sell his honour for a wife. Both parties continued for three or four days firm to the resolutions they had formed, when, at the expiration of this time, the prince of Orange affecting to be in a very ill humour, told Sir William Temple, that he was sorry he was come into England; that if the king did not recede, he was resolved to take his leave in two days; and added, in a threatening stile, that his majesty must now chuse on what terms they should live hereafter, for he was sure it must be either like the greatest friends, or the greatest enemies. The threat thrown out by the prince had its intended effect on the king, and also on the treasurer; who had long feared that France and Popery would ruin his master, or, what was yet worse, his minister. Sir William Temple gave the alarm of the prince's dis-

displeasure; and he expostulated with the king on the consequences which would ensue from suffering his highness to leave the kingdom, under the smart of such a disappointment. The earl of Danby enforced these arguments, and showed a bundle of letters from the king's best friends; probably, says Burnet, written by his own direction, which all agreed that a marriage between the prince of Orange and the duke's daughter, would be expedient for his majesty's affairs. The treasurer added, that if a rumour should arise, that the prince had proposed the match, and had met with a refusal, the Parliament would certainly make addresses; the king would lose the grace and the thanks; but if he did it of his own motion, he would bring the prince into a greater dependence on himself, and lay the foundation of a mutual confidence between him and his people. These arguments, and many more which must have been very ineffectual to a man of profound depth and steady resolution, who would certainly have seen that the nearer alliance of the prince could serve only to give him more power to enlarge parties and increase those jealousies amongst the subjects which the king's system of conduct would be continually creating, so prevailed with his majesty, that the duke was immediately sent for, and the proposal communicated in a manner that his royal highness, who had made it the rule of his conduct to pay an implicit obedience to all his brother's requests and commands, could not easily refuse. The prince was advertised of his good fortune, a council was summoned, the duke had been flattered with the hopes of marrying his daughter to the dauphin; the effect, therefore, that he gave to this match, was as strong a testimony of his obedience to the will of his brother, as it was possible for him to give.



Aug. 1677. intended marriage declared, and the whole town put in an uproar of joy.

Dalrymple's  
Appendix.

BARILLON, the French ambassador, whom the king and the duke had positively assured that no consideration should move them to consent to the match till the peace was concluded, on the first rumour of this change went to the favourite mistress, the dutchess of Portsmouth, and prevailed with her to send pressing messages for an immediate audience of the king: but lord Danby had taken care that neither the king or the duke should be spoken with, till the matter had been declared in council; and when that declaration was made, the king sent for Barillon, and used those arguments which he had heard from the mouth of Danby, to convince the ambassador that this match would enable him to preserve, with less disturbance, his alliance with France, adding, that all his difficulties had arisen from the duke's premature declaration of his religion.

Marriage of  
the prince of  
Orange with  
the lady  
Mary.

The marriage was celebrated on the 14th of November; and to soften as much as possible the resentment of the court of France, letters of ceremony were dispatched from the duke and the prince of Orange, and one from the king, which, moreover, assured Lewis, that he had made the match with the design to engage the prince to be more tractable in the treaty, which was now carrying on at Nimeguen. The promise was also renewed of not recalling the troops; and to qualify, as much as possible, the taking such an important step without the express leave of his Most Christian Majesty, a proclamation was inserted in the Gazette, to adjourn the Parliament from the 3d of December to the 4th of April.

ATTEMPTS

IV. 307

Arrangements were made before the prince of Orange left Ann 1672. England, to fix on such terms of peace as might, in some measure, satisfy the pretensions of all parties. These consultations were carried on between the king, the duke, the lord-treasurer, and Sir William Temple; and in the course of the debates, which arose on the question, Whether Burgundy should remain to France, or be restored to Spain, the prince, when the king offered to procure him either a free enjoyment of his lands in that province, or a full equivalent, returned the following truly noble answer, "That he would be content to part with them all to procure one good town more for the Spaniards on the frontiers of Flanders." In the conclusion of these conferences on the terms of a general peace, it was at length agreed, that France should restore to the emperor and empire all which had been taken during the war, and the duchy of Lorrain to its owner; that all should be reciprocally restored between France and Holland; and that Spain should be put into the re-possession of the towns of Tournay, Valenciennes, Condé, Aeth, Charleroy, Courtray, Oudenarde, and Binche, in order to form a good frontier to the Low Countries. The prince of Orange engaged to use his endeavours to obtain the consent of Spain to these terms, and the king of England that of France; and to shew with what sincerity his majesty intended to manage the negotiation, he promised to send an agent, with the propositions to France, with orders not to enter into any reasoning upon it, but to demand a positive answer in two days, and after that to return immediately. Sir William Temple, whose declared aversion to the French interest was not likely to make him fail of vigour and promptitude in the execution of the commission, was the first person nominated for the employ; but Charles immediately relenting of this assumed,



Aug. 1677. *Vigilant*, made his excuses to Basillon for the sending the embassy; and instead of Temple, dispatched the earl of Foverham, a creature of the duke's, and a Frenchman by birth, on the excuse that the message being harsh in itself, it was needless to aggravate it by a disagreeable messenger.

An immediate war with England was the consequence which Lewis expected from an alliance which he regarded with the utmost abhorrence and indignation; however, with an affected complacency, he told Foverham, that the king of England well knew that he might always be master of the peace; but as the delivering up fortifications on which immense sums had been expended, was a very hard and a very unexpected demand, he would take time to consider of it. When the prince left London, the king solemnly assured him, that he never would abate, in the least point, of the concerted plan of pacification; and that he would enter into an immediate war with the king of France if he rejected it: but the negotiation, instead of being concluded in the hasty manner in which it was determined in council, began to draw out into messages and returns from Paris, which ended in Lewis's giving a flat refusal to the terms of peace brought by lord Foverham, a preparation to send his troops into Flanders, and his withholding from Charles the promised pension.

Dalrymple's  
Appendix.

The last mentioned circumstance of Lewis's conduct, was of too irritating a nature not to be highly resented. Charles now assumed a spirit which equally surprised and pleased all those who were not in the secret. A proclamation was immediately issued to summon the Parliament. Laurence Hyde, the second son of chancellor Clarendon, was sent to Holland

to

to form a treaty of alliance with the States, on the grounds of the Triple-League, to force both France and Spain to the terms proposed; and though this measure did not come up to the expectations formed on the king's promise, which was to begin the war with all the confederates, in case of no satisfactory answer from France, yet the prince of Orange thought it advisable to make the best of what could be obtained, and with the consent of Spain concluded the treaty in the terms proposed by the king of England. Ostend and Port Mahon were demanded of the Spaniards, for the accommodation of the king's ships and troops; but the court of Spain were too well acquainted with the real disposition of Charles to trust to appearances, and refused to comply with the request, and when orders were sent to recall the troops out of the French service, his Most Christian Majesty replied, "That the capitulation should be kept, which left it in his option to retain them till thirty days after a war should be declared between the two nations."

Thus failed in some of the preparatory steps for a war; the Parliament, which had been again adjourned till these matters had come to a conclusion, were suffered to meet. On the business of the adjournment, the speaker had taken the same unwarrantable freedom with the House as has been before related; and to this account Mr. Marvel adds, that his majesty's proclamation that the House might adjourn themselves, was very well received by those of the Commons, who imagined they were thereby restored to their right after Mr. Seymour's invasion; however, Mr. Secretary Coventry delivered a written message from his majesty of the 3d of December, that the Houses should be adjourned only to the 1st of January.

Jan. 28.  
New sessions  
of Parlia-  
ment.



Ann. 1677. nuary 1677, which, as soon as read, Mr. Seymour would  
 not give liberty of speech, but abruptly, now the third time  
 of his own authority, adjourned the House, without putting  
 the question, although Sir John Finch, in *tertio Caroli*, for  
 once doing so was accused of high treason. In this manner,  
 observes the same author, the Commons were kicked from ad-  
 journment to adjournment, as from one stair down to another;  
 and when they were at the bottom, kicked up again, hav-  
 ing no mind yet to go out of doors.  
 The king, in his speech to the two Houses, informed  
 them, that he had made such alliances for Holland as were  
 for the preservation of Flanders, and which, with due assist-  
 ance, could not fail of that end; acknowledged that he had  
 used all possible means, by a mediation, to have procured an  
 honourable and a safe peace for Christendom; knowing how  
 preferable such a peace would have been to any war, especially  
 to this kingdom, which could not but be sensible of the be-  
 nefits it had received from peace, whilst its neighbours were  
 in a state of contention; declared, that since a peace by  
 fair means was no longer to be hoped for, it should not be  
 his fault if it was not obtained by force, and that he had  
 recalled his troops from France; intimated, that though  
 the Dutch should do their parts, ninety capital ships would  
 be necessary, and thirty or forty thousand land-men; con-  
 sented to have the money given for these services, appropri-  
 ated as strictly as could be desired; asserted, that he had al-  
 ready spent a great deal more than the two hundred thousand  
 pounds which he had been enabled to borrow upon Change;  
 enlarged upon the expence which he had been at in reducing  
 a rebellion in Virginia, and carrying on a new war with  
 Algiers; touched on his engagement to the prince of Orange  
 for

for his niece's portion; and signified, that he should not be able to maintain his constant necessary establishment, unless the new imposts upon wine, &c. was continued to him. After these preparatory informations, the king put the Commons in mind of their promises; said he had done all he could to remove all sort of jealousies, and that by marrying his niece to the prince of Orange, he had given full assurances that he should never suffer the interests of this prince to be ruined if he could be assisted as he ought, to preserve them; and that he expected a plentiful supply, suitable to such great occasions, whereon depended not only the honour, but, for aught he knew, the being of the English nation, which could not be saved by finding fault afterwards, but might be preserved by avoiding the error of doing weakly and by halves, what could only be hoped for from a vigorous and thorough prosecution of what was undertaken.

At any preceding period of Charles's government, it is to be supposed, that the measures he had taken previous to the meeting of Parliament, with his new alliance with Holland, would have produced all that confidence, and that return from Parliament, which the most sanguine courtier could desire and expect; but the misguided, and more than suspicious conduct of the king had raised such incurable jealousies in the minds of those who even loved monarchy, yet abhorred an absolute government; that a kind of mutual interest, arising from similar views, at this time subsisted between the patriots and the court of France. The former dreaded the strength and the popularity which a strict union with the prince of Orange would give the king, and that the army which his majesty might obtain on the pretence of a popular war, would end in the ruin of their liberties; they



they also hoped, that a Parliament, less tainted in the cor-  
 ruptions of the court, might be more safely trusted; and regard-  
 ing the earl of Danby as a very dangerous minister, they aimed  
 at displacing him from an office in which it is always in the  
 power of a daring and a dishonest man to be mischievous.  
 It was, undoubtedly, the interest of Lewis to prevent a  
 strict union between the court of England and the prince of  
 Orange, and to have a Parliament dissolved which had re-  
 peatedly addressed the king for a war with France, and to  
 overturn a minister whose influence and councils had pro-  
 duced the prince of Orange's match, and who, on the prin-  
 ciples of self-preservation, was continually urging the king  
 to break with France. Barillon, on the occasion of some  
 advances having been made to him by the patriot party,  
 writes to his master that he was inclined to form a connec-  
 tion calculated to promote the same political views as were  
 those of his Most Christian Majesty; and on this hint Rou-  
 vigny, the son of the former ambassador, and who was a  
 near relation to lord Russel, one of the leaders of the op-  
 position, was sent over with a very large sum of money to  
 be given as douceurs to those whose conduct was not solely  
 directed by conscience, or political opinion and principle.

When the reader observes the respectable names of lord  
 Hollis, lord Russel, Algernon Sidney, and Hambden, united  
 to the duke of Buckingham, and the earl of Shaftesbury, in  
 forming a connexion with the French court, in order to di-  
 vert those supplies which had, in some measure, rendered the  
 king independent of his Parliament, and to prevent the  
 united force of the two kings from effecting a revolution in  
 the government of England, he may form an adequate idea  
 of

of the strength of those apprehensions which had arisen Ann. 1677. in the minds of all who loved the constitution and the liberties of the nation, on the ill designs of Charles and his ministers; and when he considers that a much larger sum than was sent over from France to bribe the majority in the last session, to comply with the king's measures, was now given to strengthen the opposition, he will not be surprized that the event of the session did not answer the warm expectations which had been formed by the court.

In the reply of the Commons to the king's speech, they besought his majesty not to admit any treaty of peace whereby the French king should be left in possession of any greater dominion or power than what he had attained by the Pyrenean treaty; that both on our parts and the parts of the confederates, no ship or vessel might be admitted to come out of any port of France without being seized, and the goods destroyed; and that neither England or the confederates should admit any trade with France, or suffer any goods to be imported from thence, on pain of being confiscated.

THE vigorous measures recommended to the king by the Commons, and their presumption in prescribing terms to their sovereign, were equally disagreeable; consequently they received a reprimand in a high and authoritative tone, and instead of vindicating their right to give their advice in all matters of national concern, they seemed to acknowledge that they had been in an error, by falling immediately on the business of a supply. A fleet of ninety sail, an army of thirty thousand men, and a million of money, were voted; yet not without many shrewd hints being thrown out in the

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Ann. 1677. course of the debate, that the king indeed intended to raise a military force, but never designed to join in the war; and some proposals, rather to take the German princes in pay, than to submit to the dangerous expedient of a land-army.

IMMEDIATELY after the Parliament had voted a supply, dispatches were sent to the prince of Orange of a very contrary tendency to those which he had hitherto had from England. He was pressed not to admit of a peace on any terms inferior to those which had been proposed to Lewis, by lord Feverham; a levy of twenty thousand men, to the astonishment of all Europe, were completed in a few weeks; some regiments were sent over to secure Ostend; a fleet was fitted out with great diligence; a quadruple alliance was projected between England, Holland, Spain, and the emperor, and the duke of York was to figure on the Continent at the head of the English forces.

THESE formidable preparations were, perhaps, regarded with more terror by the patriots in England than by the court of France; and the same apprehensions began to infect the majority of the House\*. Instead of going on to perfect the

\* The heads of the Cabal (writes Barillon to Lewis the Fourteenth) have given me to understand, that there is nothing so dangerous for them as to leave matters any longer in the present uncertainty; that the levies are going on, and when there is a sufficient number on foot the court will attempt every thing which is agreeable to its interest; that by arresting the principal persons, they will put it out of the power of others to resist, or oppose themselves to the designs of the court; that when England shall be subdued at home, the court will carry on a foreign war with the greater facility, and the whole nation being in one way of thinking, the supplies of men and money for Flanders will be great.

bill of supply, they addressed the king to declare war against France; they appointed a day to consider of the state of the kingdom in regard to Popery; and they passed a vote that how urgent soever the occasion, they would lay no further charge on the people till they were secured against the prevalence of the catholic party.

Ann. 1677.

The king of France did not fail to take full advantage of these distractions: his emissaries had been very active in Holland, in representing to the Dutch how little reason they had to depend on the unsettled councils of England: an attempt was also made to renew the connexion with the Lovestein faction, who were not a little jealous lest the matrimonial alliance of the stadtholder should prove equally dangerous to the liberties of their country, as had been that of the prince his father.

It was not on intrigue alone that the king of France depended for the effectuating his purposes: he took the field very early in the spring of 1678, and after threatening Lux-

Campaign of 1678.

embourg that nothing is more proper to prevent this than to press the declaration of war, and oblige his Britannic majesty to determine before measures are taken to support it. Another letter from Barillon, dated April 28, plainly proves, that the patriots had too just grounds for their apprehensions: the high treasurer's aim, says the writer, is to procure money, and he would willingly increase his master's authority; the duke of York believes himself lost as to his religion, if the present enterprize does not serve to bring England into subjection: but the king of England still wavers, as to the bringing things to extremity: his humour is repugnant to the design of changing the government, but he is nevertheless drawn along by the duke of York and the high-treasurer.

*Dabrymple's Appendix.*



Ann. 1677. embourgh, Moha, and Namur, he suddenly sat down before Ghent and Ypres, and in a few weeks made himself master of both these places: a circumstance which gave such an alarm to the Hollanders, that the prince of Orange declared to Mr. Godolphin, king Charles's agent, that the States would be satisfied that both Tournay and Valenciennes, should remain to France, provided that all the rest should be restored to Spain, according to the treaty which had been concluded between his majesty and the States.

CHARLES now congratulated himself with the having the peace in his own hands. The allies had trusted him so far, as to engage him to endeavour to find out the intentions of the French king. Whether it was likely he would abide by their propositions before they discovered their sentiments, and he was determined, if possible, to make use of this advantage, to obtain money from Lewis for these concessions: accordingly the lord-treasurer, by the interposition of Mr. Montague, entered into another treaty with France, in which the terms extorted from the confederates, by their present dangerous situation, were loaded with a pecuniary demand in behalf of his Britannic majesty, and a hint, that if a proper consideration was given, the treaty might be managed in such a manner as to obtain Condé from the allies.

LEWIS, having thus gained the proper intelligence, formed the design of obtaining, without the king's assistance, his own terms from the confederates. A plan of peace in many respects less favourable than the terms offered, was communicated, in the name of his Most Christian Majesty, to the plenipotentiaries at Nimeguen, on the 9th of April, new stile, with an intimation that he would expect the issue till the

the 10th of May, after which he might probably carry on the war with a larger force than hitherto had been seen; and particularly that there should be such an impression on the Catalonian side as would quickly make the Spaniards repent the having refused offers of peace. Ann. 1677.

THE provoking circumstance of giving no attention to the demand of money, was aggravated with the printing the copy of the declaration made at Nimeguen, which contained many things injurious to the reputation of his Britannic majesty, and was calculated to draw him into suspicion with the whole confederacy. This roused to a high pitch the resentment of Charles: word was sent to Nimeguen, that the king of England could neither accept, nor so much as countenance the French conditions: the negotiations for forming the quadruple-alliance, which had advanced or stood still, as the cajoleries or the insults of France provoked or amused, was now carried on with diligence; and when Van Beuninghen, the Dutch agent, declared he had no powers to conclude it without a previous application to the States, an expostulatory letter was sent from the treasurer to the prince of Orange, in which he declared his surprize that any obstruction should proceed from the States, when his majesty was ready to go into the utmost alliances against France that any of the allies would come up to, and that the fault would not be on his side if the war was not pursued to the utmost. To these expostulations of the treasurer, was added several pressing letters from the duke of York to the prince of Orange, all tending to the forwarding the war; and the prince, who regarded the terms proposed by France as very ruinous to the allies, and dangerous to the peace of Europe, was again taken in the snare, and



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and entered into a kind of intrigue with the ministry of England, for the purpose of managing the Dutch ambassador, Van Leeuwen, and to procure a declaration from the Parliament, disproving of the pacific conduct of the States.

THE ambassador, on his arrival in England, declared to Sir William Temple, that the king of England's uncertain proceedings had raised such jealousies in Holland, that most of the towns thought they had nothing better to do than to close with the French as fast as possible; yet professed in confidence, that if the king would immediately declare war, he believed the States would go on with it in pursuit of their alliance and the terms therein contained.

WHEN the Parliament, which had been adjourned from the 15th of January to the 28th of April, re-assembled, the lord-chancellor, after giving such a brief deduction of affairs, as tended to justify the measures of the king, proposed the forming one common alliance for all parties to enter into for the making the necessary dispositions towards carrying on the war, for the establishing a general prohibition of commerce, and providing against all possibility of a separate peace, and then proceeded, according to the hint given by the prince of Orange, to throw such reflections on the Dutch, as would, if the Commons had been in the temper to have trusted the king with the management of the war, have produced the desired effect.

THE grounds of the plan, for proceeding against France, laid down by the chancellor, was almost exactly the same as the king had thought so unreasonable when advised by the Commons on a more favourable opportunity; but the temper of the House, as well as the opinions of his majesty, had under-

undergone a great change. The party in opposition had considerably encreased in number during the recess of Parliament: the intriguers had entered into a formal negociation with Lewis, through the means of the Sieur Falaiseau, who was of the reformed religion, and was sent to France on the part of the malecontents, to settle money matters, and other preliminaries with that court. Ann. 1678.

THE Commons, on their return to the House, after ordering such of their members, as were of the privy-council, to apply to his majesty for all such leagues and speeches as were mentioned in the chancellor's harangue, resumed the consideration of the state of the kingdom with regard to popery; voted that they could not think it suitable to their trust to consent to lay any further charge upon the people, however urgent the occasion, till they were satisfied that all care and diligence were used to secure the kingdom, and prevent the dangers which might arise from the prevalence and countenance given to Papists; made applications to the king for the original proposals, dispatches, and instructions sent over to France, by the lord Feversham; and resolved, that the league offensive and defensive with the states-general of the United Provinces, with the articles relating thereunto, were not pursuant to the addresses of the House, nor consistent with the good and safety of the kingdom.

THE king complained of the matter, and the form of these votes: and the Commons sent up an address, which contained a justification of their conduct; ascribed all the present inconveniencies and dangers of the kingdom to the non-acceptance of the notice contained in their addresses; and humbly desired, that for the good and safety of the kingdom, and the satisfaction of



Ann. 1678. of his subjects, his majesty would be graciously pleased to remove the advisers of his answers to the addresses from his presence and councils, and, in particular, the duke of Lauderdale.

The king was in a rage at a conduct, which his very unwarrantable and suspicious proceedings did but too well justify. He reproached Sir William Temple with his popular notions, and asked him, When or how he could trust the House of Commons to carry him through the war if he should engage in it? He told the Commons, that their address was so extravagant, that he was not willing to give it the answer it deserved: and finding that this language served rather to incense than to intimidate; that the heat of the debates grew higher and higher; and that no attention was given to the importunate messages for a supply, he repaired to the Upper-house, and after acquainting the Lords, that he intended to prorogue the Parliament for a few days, to give the Commons time to reflect, that they might behave themselves more respectfully hereafter, and thanking their lordships for their dutiful carriage, the two Houses were prorogued in the usual forms, from the 13th of May, to the 23d of the same month.

New treaty  
with France.

LEWIS was too well versed in the arts of intrigue, not to make the most of the opposition which he had fomented in the English Parliament. New proposals were made to Charles, and this prince, in contradiction to the alliance he had formed with the States, to the promises he had made to the allies, and his engagements with the prince of Orange, made no

Sir William Temple, in one of the conversations he had with the king, had told him, according to the observations of a French writer, "That to be truly great he must be the man of his people."

scruple to enter into another treaty with France, by which, Ann. 1678. on the consideration of six millions of livres, he obliged himself to stand neuter in the war, if the allies should refuse the terms of peace which France had offered at Nimeguen.

THE cajolements of France, the irresolute conduct of Charles, the refusal of parliamentary grants, and, above all, the terror which 45,000 men in the heart of Flanders occasioned, and the difficulties which attended, in the present condition of the allies, the bringing any army into the field to oppose them, produced such an impatience in the Hollanders, that Van Beverning, their minister at Nimeguen, repaired to the French king at Ghent, in order to concert the terms of a general peace, as well as to procure a present truce for six weeks. The terms agreed on were much worse than those which had been planned by the king and the prince of Orange. Six towns, some of them of no great importance, were to be restored to Spain; but Ypres, Condé, Valenciennes, and Tournay, in which consisted the chief strength of their frontier, were to remain with France.

CHARLES, to palliate the reflections which were made on him for raising the power of France to such an enormous height as to endanger the general liberties of Europe, endeavoured, on the re-meeting of the Parliament, to throw all the blame of the present unhappy conjuncture on the Commons; and, after some reprehension on this subject, he gave them to understand, That a military armament would be necessary, either to secure a peace, or carry on a war; and that, in either case, both the army and the navy ought to be kept up: besides, it would be improper to discourage so many worthy and gallant gentlemen, who had offered their lives and ser-



Ann. 1678.

vices to their country. The Commons were then put in mind, that one branch of the revenue was near expiring; that another part was cut off by the poll-bill; and that two hundred thousand pounds was necessary to indemnify his majesty for what he had taken up on the credit of the excise.

THE king ended his speech with a strong assertion of the fairness and honesty of his designs in regard to the happiness and safety of his people; and the chancellor, improving on the hints which had fallen from the throne, declared, That the Dutch had only been prevented from concluding, in the last year, a bad peace, by the king's refusal to hearken to it, or to have any part in it: and proceeded to lay the blame of the present disappointment on the House of Commons, whose resolution to give no money, till satisfaction was obtained in point of religion, had produced a general eagerness among the allies for peace. In discoursing on the influence a peace in the present conjuncture would have on the affairs of England, the chancellor gave shrewd hints, That by the provocations given to a mighty king, the government had negotiated itself into the necessity of a standing army; and, on the head of the necessity of coming to a better intelligence at home, he took occasion to refer to the pretences which had given rise to the late civil war; mentioned the printed libels of the present times as symptoms of the return of that fatal distemper; started a doubt, lest some kind of scandal was not brought on the Protestant religion, by distrusting the truth and power of it; and closed his harangue, with enforcing the necessity of making good the failures, and supplying the wants of the revenue; with shewing the mischievous and dangerous consequence of tacking bills together: and asserted,

that these innovations the king had determined to abolish, Ann. 1678.  
and had commanded him to say as much.

THE freedom with which the Commons had been treated in this speech gave them great offence. Many angry things were said on the subject, and the business of the session was opened with renewing the standing order of the House against bribery in any manner or form for a seat in Parliament; and, after a short adjournment, several votes were passed to the following purport, That the king should be addressed to acquaint the House with the state of affairs in relation to war and peace. That in case he thought fit to enter into a war against the French king, in concert with the emperor, the House would support him therein; and in case a war was declined by his majesty, they would provide for the disbanding the army.

THESE votes were presented in their original form, and the king returned for answer, that he believed the cessation which the French king had granted would end in a general peace: but since that was not certain, he did not think it prudent to dismiss either fleet or army, for whose subsistence he desired money; as also for the two hundred thousand pounds mentioned in his speech for the maintenance of the household.

ON the receipt of this message, the Commons unanimously voted, that all forces raised since the 29th of September last, except those transported to foreign plantations, should be paid off and disbanded. The sum of two hundred thousand pounds, with an appropriating clause, to be raised by monthly assessments after the expiration of the land-



Ann. 1678. tax, was allotted for disbanding the land-army; and two hundred thousand pounds for payment of the fleet.

ON a message from the king, signifying that it would be dishonourable to recal his forces in Flanders from those towns which he had taken into his protection before they could provide themselves with other succours, the House extended the time as to the forces in Flanders, till the 27th of July, and the king, as if flattered with this condescension of the Commons, came to the House of Peers, and expressed himself to the following purport, That a peace was ready to be determined, at least as to Spain and Holland, in which his part would be not only that of a mediator but guarantee; that Spain demanded of him to be at the charge of maintaining Flanders even after the peace; that this would oblige him to keep up his navy, and called for some assurance to the world that we were well united at home; that though the House of Commons might, perhaps, think such a peace as ill a bargain as a war, they would nevertheless be reconciled to it, if they seriously considered that otherwise Flanders would have been lost perhaps by this time, and that they would, he believed, give much greater sums rather than the single town of Ostend should be in the hands of the French, which would enable them to keep forty of their men of war over against the mouth of the river; that if they desired to keep up the reputation which England had acquired abroad, by raising thirty thousand men in forty days, and preparing a navy of ninety men of war; if they desired to maintain the honour of the crown at home, to look to the safety of the balance of affairs abroad, and pursue the war with Algiers; if they desired he should pass the rest of his life in quiet  
and

and in kindness and confidence with them, and future Par- Ann. 1678.  
liaments, they must find a way not only to settle for his life  
his revenue, as it was at Christmas last; but also to add a  
new fund of three hundred thousand pounds a year: upon  
which he would pass an act to settle five hundred thousand  
pounds upon the navy and ordnance, and should be like-  
wise always ready to consent to all such laws as they should  
propose for the good of the nation.

This extraordinary speech, which ended with a demand  
for the forty thousand pounds for the prince's of Orange's  
portion, which was undoubtedly a severe censure on his ma-  
jesty's conduct, and which demanded a stronger testimony of  
confidence than the Parliament had thought proper to give  
on more favourable occasions, met with the reception which  
might well have been expected. Thanks were returned to the  
king for his gracious expressions: but on the article of the  
additional revenue, the courtiers had not the courage to di-  
vide the House; and when a motion was made to give his  
majesty a compensation for what he lost in his customs, by  
the prohibition of French commodities, it passed in the ne-  
gative, by fifty-seven voices, and the House called for an ac-  
count of what pensions had been charged on the revenue, and  
what privy-seals had been issued for secret service.

As a further and last trial of the temper of the House,  
they were informed, through the channel of the Lords, that  
from the intelligence received at the secretary's office, it ap-  
peared, that the peace was yet doubtful. This information  
passed unnoticed by the Commons; and the only answer which  
they returned to the message of the Lords was, to remind them  
of the bill which lay before them, entitled, "An act for the  
granting



Ann. 1678. granting a supply to his majesty to disband the forces raised since September 29."

AFTER a short dispute between the two Houses, in which the Commons stiffly insisted on their privileges, in regard to the sole right of granting money, one general bill of supply passed, which amounted to upwards of six hundred thousand pounds, and which was to answer the expences of disbanding the army, to repay the two hundred thousand pounds borrowed on the excise, and provide for the princess of Orange's portion, and the king's extraordinary occasions: who having now no further expectations from the Commons, prorogued them from July 15, to August 1, with an intimation that unless there was occasion for the Parliament's assembling sooner, he should not require their attendance till winter.

ENCOURAGED by the late treaty made with Charles, Lewis, on the pretence that he was obliged to see an entire restitution made to the Swedes of all that they had lost in the war, refused to put Spain in the possession of the six towns restored to her by the treaty. His ambassadors at Nimeguen raised difficulties with the Dutch in regard to their treaty of commerce; declined passing the article relating to the prince of Orange as it was proposed; refused to restore Maestricht, till Sweden was satisfied; and, in direct opposition to the stile they had used on a former occasion, said, their master

not. Acts passed: An act for raising money by a poll and otherwise, to enable his majesty to enter into an actual war against the French king, and for prohibiting several French commodities.

An act for continuance of two former acts, for preventing of theft and rapine upon the northern borders of England. *Statutes at Large.*

would

would not suffer the Swedes to give the consent they were <sup>Aug. 1672.</sup> willing to give to the elector of Brandenburg, because it was not for his glory that any composition should take place. These conditions the ministers of the allies were assured had met with the concurrence of the king of England, and that France had nothing to apprehend from this monarch, who had obliged himself by treaty not to stir against her.

On the receipt of this intelligence from the States, Charles dispatched Sir William Temple to concert with the republic vigorous measures for opposing France. In six days, a treaty was concluded, by which Lewis was obliged to declare, within sixteen days after the date, that he would evacuate the towns; and in case of his refusal, Holland was bound to continue the war, and England to declare immediately in conjunction with the confederacy.

By the many attempts which the king made to gain the authority of Parliament for the keeping up the army, it is probable that such a treaty was only concluded to furnish an excuse for this purpose; to gain supplies from the Commons, and to squeeze money from France. On the 23d of July, lord Sunderland was sent to France to make a compromise about Sweden. Barillon gives it as his opinion, that all the demonstrations of war in England would terminate in a treaty, if Lewis would give subsidies to make England act in favour of Sweden; and certain it is, that about the time when the negotiations were carried on in Holland for a treaty with the States, the earl of St. Alban's, by his master's orders, presented a project for a treaty between the kings of France and England, by which Charles, on the consideration of a subsidy for three years, was to maintain



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maintain a fleet and army at the expense of France, in favour of Sweden, and to be neutral in Flanders.

Lewis knew well how to make use of the duplicity of the king of England, without parting with his money. It had been customary for Charles to pass the greater part of his time in the apartments of his mistresses, and in particular in that of the dutches of Portsmouth, where he had usually transacted his treaties with France, and where he used continually to meet Barillon, the French ambassador, a man of polite insinuating manners, agreeable conversation, and one of the most dextrous intriguers that France ever produced. By the insinuations of this dangerous minister, one Du Gros, a French fugitive monk, an envoy of the duke of Holstein, and in Barillon's pay, was sent with a message to Temple, directing him to apply to the Swedish ambassador, and persuade him not to insist on the conditions required by France, but to sacrifice to a general peace the particular interests of Sweden.

The drooping spirits of the allies had received fresh vigour from the warlike resolutions of England. The prince of Orange, ready to engage in any undertaking which bid fair to humble the pride of Lewis, put himself in immediate action, and approached towards Mons, then blockaded by the French. All Europe regarded with pleasure a war which was likely to be made on more equal terms, when Du Gros arrived at the Hague, and, agreeable to the instructions which he had received from Barillon, published every where in Holland the commission with which he was intrusted, gave shrewd hints of a treaty subsisting between France and England, on the subject of Sweden; and moreover insisted that Temple should leave  
the

the Hague directly, in pursuance of the order he had received: the republic took the alarm, it was concluded that Charles was as uncertain as ever, and that no steady measures could ever be taken with England. Ann. 1678.

On the morning of the critical day, which by the late treaty between England and Holland was to determine whether a sudden peace or a long war was to have place in Europe, the French ambassadors told Van Beverning, that they had orders to consent to the evacuation of the towns, and immediately to conclude and sign the peace. As Van Beverning had not the consent and concurrence of Spain, he undoubtedly ought to have refused a compliance, but impatient with the fluctuating councils of England, and alarmed for the interests of the republic, he gave way to the instances of the ambassadors; the papers were instantly drawn, and the peace signed between eleven and twelve o'clock at night.

On the next day an express arrived from England, which brought the ratifications of the treaty lately concluded with the States, and some hopes were conceived by the allies, that the republic would disavow their ambassador, and renew the war. It was, in all probability, in this hope that the prince of Orange, affecting an entire ignorance of the signing the peace at Nimeguen, the very day after attacked the French army at St. Dennis, near Mons, and gained a complete victory; but neither this advantage obtained by the prince, nor the arrival of Mr. Hyde, who was sent over with a view to persuade the States to disavow the proceedings of Van Beverning, and to assure them, in the king's name, that if he



Aug. 1678, might depend on Holland, he would immediately declare war, and would pursue it till France was reduced to reasonable conditions, nor even the sending ten thousand men from England had any effect. Mr. Hyde's embassy was followed by orders to Sir Lionel Jenkins, to propose a general suspension of arms for six months; and the States were so provoked with a conduct that yet betrayed symptoms of an averseness to war, and with the repeated assertions of the French ambassadors, that Charles was bound by treaties to France not to interfere in the making the peace, that they declared that if England was really engaged in the war, they would have no part in it; and accordingly ratified the treaty signed at Nimeguen.

Peace of Nimeguen.

If Charles ever did seriously design to make war with France, it was undoubtedly at this period, when he was thoroughly provoked on a subject of a very interesting nature. The secret and private manner in which it was necessary to carry on the treaties with France, rendered their emoluments very precarious, and depending entirely on the honour and good-will of Lewis. In the last treaty, his Most Christian Majesty had insisted, that the Parliament should not be re-assembled for six months, and that Charles should disband his new-raised army, except three thousand men destined for Ostend, and three thousand for Scotland. On hearing this demand, which was, in all probability, concerted with the party in opposition\*, Charles broke out

\* Lewis would have insisted on the dissolution of the Parliament, according to the desires of the party, but was dissuaded by Barillon, because it would be difficult to obtain.

into

into a passion, and said, "Does my brother of France Ann. 1673.  
 "think to serve me thus? Are all his promises to make  
 "me absolute master of my people come to this? Or does  
 "he think that a thing to be done with eight thousand  
 "men?" On the king's absolutely refusing to sign these ar-  
 ticles, Barillon contenting himself with the power of reward-  
 ing his majesty according to his deserts, waved the dispute,  
 and Charles concluding that these difficulties were over, made  
 himself merry with the ambassador and the dutchess of Portf-  
 mouth, on his having fairly duped the allies and the public,  
 who expected great events from the mighty preparations for Reresby's  
Memoirs.  
 war: but when, on the demand of the treasurer, Barillon  
 absolutely refused payment of any part of the sum stipulated,  
 on the non-performance of articles, his majesty considered  
 the matter in a less facetious light; and this disappointment  
 and the neglect of Lewis to listen to the terms of his pro-  
 posal for a new treaty, with the manner in which he was  
 again exposed at Nimeguen, raised another paroxysm of re-  
 sentment at the perfidious conduct of his ally; but his after  
 message, desiring a suspension of arms, gives grounds for  
 suspicion that he wanted time to make a surer bargain with  
 Lewis, who, it was supposed, would part with large sums  
 rather than give up his conquests, or engage in another war  
 against so strong a confederacy. This suspicious circumstance  
 and the low estimation which all Europe set on the faith  
 and honour of his Britannic majesty, on the point of pru-  
 dence fully justify the States in the ratification of the peace:  
 but if the law of self-preservation does not entirely cancel  
 every tie of honour, it must be acknowledged that their  
 conduct was dishonourable, in defeating, at one stroke, all  
 the hopes of the allies, who were at last, after much cla-  
 mour and fruitless complaints, after suffering much from the



Ann. 1678. insolence and depredations of France, obliged to accept of the terms prescribed for them, terms by which Lewis gained from the Spaniards Franche Compté, the towns of Bezancon, Valenceiannes, Bouchain, Condé, Cambray, Cambesca, Aire, St. Omer, Ypres, Warwick, Warneton, Popersinghen, Bailleul, Cassel, Bouay, and Maubeuge, and the dutchy of Lorraine, from its owner.

NOR did the encroachments of Lewis end with the conclusion of the war. Under the pretence of dependencies on the places in which he was left in possession, he formed such claims, and pursued them by such imperious methods, both against the empire and the Spaniards, as rendered his acquisitions, after the peace, of almost equal importance to those he had gained in the war: great tracts of country were added to his dominions, with the towns of Strasburgh and Luxemburgh, without one of the neighbouring powers venturing to interpose for the relief of the sufferers.

THE peace of the North was adjusted agreeable to the terms prescribed by Lewis: the king of Denmark, and the elector of Brandenburg, at first broke out into passionate complaints, on the being abandoned by the allies, and declared that they would defend what they had conquered from the Swedes in Germany: but no sooner did the French troops march into the territories of Brandenburg, than the two princes made what haste they could to finish their separate treaties; and upon the payment of certain sums of money, delivered up all which they had gained in the war from the crown of Sweden.

THE

The principles on which the government of Scotland continued to be conducted, under the administration of the duke of Lauderdale, and the special countenance of the king, shew too plainly what the English might have expected if the dangerous designs against their liberties had taken place; and that an easy, indolent, prodigal disposition, addicted to irregular pleasures, fond of flattery, and void of the principles of justice and integrity, or that sympathy for the feelings of others, which often proves a sufficient balance to human selfishness, is as capable of forming a compleat tyrant as the more exalted vices of a Tiberius, or a Vitellius.

Ann. 1672.  
Affairs of  
Scotland.

When Lauderdale returned to Edinburgh, in the year 1673, after the address of the English Parliament to remove him from the king's presence and councils, the commissioner, instead of that ready compliance which had allowed him, without contradiction, to supply the vacancies of the Lords of the articles by his own nomination, which had suffered him to condemn to imprisonment one of the members for moving that acts might be read three times before they were suffered to pass, found a strong opposition formed against him in the Scotch Parliament, on the enormous abuses which, to the emolument of the commissioner and his friends, had been made on the power with which that assembly had entrusted the king, to lay impositions on foreign commodities.

To get rid at once of these complaints, and a long list of troublesome motions concerning grievances and misdemeanours, the creatures of the commissioner asserted, that nothing ought to be moved in Parliament but by the Lords of the articles; and the House was further assured by the commissioner,



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missioner, that if they should every one agree to have grievances otherwise treated, he would interpose by his negative.

AFTER this annihilation of all the virtues and use of Parliaments, this assembly was prorogued, and the duke of Hamilton and the earl of Tweeddale, the two leaders of the opposition, with several other members, repaired to London, to apply to the king as the only individual who, in the present depression and insignificance of the national assemblies, could correct that variety of abuses under which the kingdom had long groaned.

As the absurd law against leasing-making, in a manner barred all approaches of truth to the throne, great precautions were used in the representations of the malecontents to the king, whose moderate demands, if his majesty had consulted his real interest, he would undoubtedly have complied with; but no redress was obtained. The duke of Lauderdale was continued in his authority, and his insolence, increasing by an ineffectual opposition, all parties felt, by turns, the weight of his power: the bishop of Dunblain was turned out of his bishopric, and four of the ministers of Edinburgh confined for setting on foot petitions for a national synod, in order to resettle the church.

ALL the lawyers were put from the bar and banished, by the king's order, twelve miles from the capital, because they refused to declare it as their opinion, that appeals to Parliament were illegal: as principle operated on these men for the space of one year, the justice of the kingdom was suspended for this time; nor were any restored to the exercise of

of their profession, till they had recanted the doctrine which was displeasing to the court. Ann. 1678.

To avail themselves of the great power and credit of Lauderdale, the magistrates of the city of Edinburgh had endeavoured to purchase his favour by gifts and presents, to the value of upwards of eleven thousand five hundred pounds sterling, besides a pension of two hundred pounds a year: but no sooner had they discontinued their presents, than they were threatened with a removal of the several courts of judicature to Stirling; endeavours were used to deprive them of their charter; and a letter was procured of the king for expelling twelve of the chief magistrates, and declaring them incapable of public offices, for the unpardonable crime of the want of a proper compliance with the humours and the interests of the commissioner.

THE boroughs of Scotland had a privilege of meeting once a year by their deputies, in order to consider the state of trade, and to make bye-laws for its regulation: in this convention a petition was voted, complaining of some late acts which obstructed commerce, and praying the king that he would empower his commissioner, in the next sessions of Parliament, to give his assent for repealing them: this was deemed a great offence, and as a punishment for the presumption, several of the members were fined and imprisoned.

It were endless to give an account of every private injury committed by the imperious Lauderdale; but the case of lieutenant-general Drummond is rendered remarkable, on the reason that this gentleman had served the king and his father for thirty-five years, and had an unfulfilled reputation: however,



Jan. 1678, ever, he fell under the displeasure of Lauderdale, who procured a letter from the king to the privy-council, commanding them to issue an order for the lieutenant-general to enter himself a prisoner in Dunbarton castle within forty-eight hours. Though the letter specified no crime, nor the suspicion of any, and contained a violation of an express act of James the Sixth, yet the lieutenant-general obeyed it, and in the space of an year, by petition to the king, obtained his discharge, there not having appeared either crime, misdemeanour, or trespass, against him.

In the year 1675, the privy-council dispossessed twelve noblemen of their houses, in order to convert them into garisons, for the suppression of conventicles; and a writ was issued out, called intercommuning, which involved every individual in the same guilt, who harboured any of the Non-conformists, or who omitted to seize them when it was in their power. On this opportunity one Carstairs, a loose and vicious individual, of a ruined fortune, who had intrigued for the prince of Orange with the Scottish male-contents, entered into agreement with Sharp for an emolument out of the fines, to be set on his evidence, to frequent the conventicles in disguise, and to witness against such as he should see there: in the course of these researches, he gained intelligence of one Kirkton, an eminent preacher, whose caution had led him to avoid field-meetings, and seeing him walking in the streets of Edinburgh, he told him that a sick person sent to beg a visit of him. Kirkton, not suspecting any snare, accompanied Carstairs, who carried him to his own lodgings; and when there produced a pretended warrant, which he threatened to execute on Kirkton, if he did not give him a supply of money. Kirkton offered to go to prison till the circumstance

of his innocence should be made appear; but Carstairs, who Ann. 1678.  
had often made use of these means to extort money, and had  
really no warrant, locked Kirkton up in his bed-chamber,  
and went out to procure one.

Kirkton called to the people of the house, and prevailed  
with them to fetch Baillie of Jerviswood, his brother-in-law,  
who was a man of parts and virtue: in the mean time, Car-  
stairs not having been able to find nine privy-counsellors to  
sign a warrant, returned without it, yet pretending such an  
authority, endeavored to force Kirkton to go to prison: Kirk-  
ton refused to obey; a struggle ensued, Kirkton called out  
murder, and Baillie coming to the door in this critical mo-  
ment, forced it open, and found Carstairs sitting upon Kirk-  
ton, who refused to shew his warrant, though Baillie offered  
to assist him to execute it if he had any.

BAILLIE threatened to sue Carstairs for the riot, but before  
the next council-day, a warrant was signed by nine privy-  
counsellors, and antedated, according to the confession of the  
earl of Athol to Dr. Burnet. Baillie was cited before the  
council; Carstairs produced his warrant; the council refused  
to examine Baillie's witnesses to prove his behaviour; con-  
demned him to a fine of five hundred pounds, and one  
year's imprisonment, and turned the duke of Hamilton and  
lord Kincardine out of the council, for arguing against the  
proceeding, as more like a court of inquisition than a legal  
government.

This was the state of justice in Scotland, and the mea-  
sure of persecution suffered by the Non-Conformists till the  
year 1678, when a very extraordinary piece of policy was



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practised by Lauderdale, in order to produce those distractions which might give some colour of justice to his tyrannical proceeding, and produce a lucrative harvest to himself and his followers.

By the means of the president of the sessions, who in 1650 had joined in the remonstrance against the king, and in 1662, had resigned his judge's place, rather than renounce the covenant, a treaty of accommodation was carried on between the duke and the party, and this with the countenance given to the Non-Conformists, both by the duke and his wife, who had entertained the thoughts of marrying her daughters into the Presbyterian families of Argyll and Murray, was no sooner made public, than it produced the desired effect: the bishops were alarmed and angry, and, consequently, ready to go all lengths with the government; and the Non-Conformists so full of confidence, that they crowded to the conventicles with little or no reserve.

The duke of Lauderdale now pulled off the mask; the religious meetings held in the field were called rendezvous for rebellion; an alarm was spread, as if an actual rebellion was breaking out; troops were ordered to march towards the borders, both in England and Ireland; a bond or contract was, by order of the privy-council, tendered to the landlords in the West, by which they were to engage for the good behaviour of their tenants; and on the refusal of the greater part of the gentry to sign them, commissions were given for the raising and arming the Highlanders, and letting them loose, to live at free quarter in the most populous and industrious counties in Scotland. These military barbarians, unaccustomed to discipline, and trained

up in rapine and violence, were suffered to commit outrages on persons of all conditions, ages, and sex: even torture was used to discover concealed wealth; and it was not till the voice of the whole nation was raised against the enormity of these proceedings, that the Highlanders were sent home to their barren mountains, loaded with the spoils and the execrations of the West.

Those who from terror had been engaged to subscribe the bonds, could find no other means for security but by turning out such tenants as they suspected of an inclination to conventicles, and thereby depopulating their estates: and to encrease the misery of the unhappy farmers, thus turned out, the council enacted, that none should be received any where, or allowed a habitation, who did not bring a certificate of his conformity from the parish minister.

By the laws of Scotland, any man who took an oath before a magistrate, that he thought himself in danger from another, might obtain a writ, by which the offender was bound under the pain of imprisonment and outlawry, to find security for his good behaviour: on this pretence the refusers to subscribe the bonds were summoned to appear before the council, and were required to bind themselves, under the penalty of two years rent, neither to frequent conventicles, nor allow their families and tenants to be present at these unlawful assemblies.

By another law of Scotland, a man who was accused of any crime, and did not appear in order to stand his trial, might be publicly outlawed; and whoever afterwards, either on account of business, nearness of relation, or charity, had



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any intercourse with him, was subject to the same penalties as could by law be inflicted on the criminal with whom he conversed. Writs of outlawry were issued against the hearers and preachers in conventicles, and lest the cries of the oppressed in Scotland should disturb his majesty's peace, by adding to the discontents in England, the council forbade, under severe penalties, all noblemen or gentlemen of landed property to leave the kingdom, who were also required to deliver up their arms, upon oath, and not to keep any horse above the price of four pounds.

These things, says Burnet, seemed done on the design of forcing a rebellion, which, it was thought, would soon be quelled, and would give a good colour for keeping up an army; and duke Lauderdale's party depended so much on it, that they began to divide, in their hopes, the confiscated estates among them; so that on Valentine's-day, instead of drawing mistresses, they drew estates: but it was happy for the public peace, that the people were universally possessed with the opinion, that a rebellion was desired.

PROVOKED at these accumulated insults and oppressions, the duke of Hamilton, and the earls of Cassils and Tweeddale, went to London, to lay their complaints before the king; who not only refused to see them, on the reason that they were come up in contempt of an order of council, but sent down to the Scottish privy council a letter of thanks, with an express approbation of all the violent and unjust proceedings which had given rise to the complaints.

If there was any man in Scotland equally noxious, and equally unpopular with Lauderdale, it was Sharpe, arch-  
bishop

bishop of St. Andrew's, whose apostacy, treachery, and cruelty, had rendered him extremely odious to the Covenanters, and whose villany was so well known to the king, that whilst supporting him as an instrument of his tyranny, he made no scruple to assert, "That he was the greatest knave and rogue in the world." So early as the year 1668, one Mitchell fired a pistol at the primate, as he was sitting in his coach, in one of the principal streets in the city. The bishop of Orkney, who at the instant of the firing was stepping into the coach, received the shot in his arm, and the primate escaped; but so generally was he hated, that the assassin was allowed peaceably to walk off; and having turned a street or two, and thrown off a wig which disguised him, he made his appearance in public, and remained altogether unsuspected. In the year 1673, Sharpe remarked one who seemed to eye him very eagerly; and, on motives of a timid anxiety, he ordered the suspected person to be secured, and examined. Two loaded pistols, which were found upon him, confirmed Sharpe's suspicions, and he made the most solemn promises, that on a confession of guilt he should be dismissed without any punishment. The archbishop's conjecture was just; but Mitchell continuing obstinate in the denial of the fact, he was brought before the council, when a promise of pardon was solemnly given, provided he would make a full discovery. To the great mortification of Lauderdale and his party, who were in hopes to find the whole body of Covenanters involved in the guilt, on the confession of Mitchell it was found, that only one person, since dead, had been made acquainted with the purpose.

THE council, in contempt of faith and honour, put Mitchell on his trial; but as he retracted his evidence, any otherwise.



Ann. 1672. otherwise than as it was joined to his pardon, Sir John Nelbit, the king's advocate, had the honesty to withdraw the prosecution, and the judges gave way to it. On finding the victim thus ready to escape, he was examined before the council, on the pretence of his being concerned in the insurrection at Pentland; and though no proof appeared against him, was put to the torture, which he endured with singular resolution, and continued obstinate in the denial of the pretended crime. Instead of obtaining his liberty, he was sent to the Bass, a very high rock, surrounded by the sea, at this time converted into a state prison, and full of the Covenanters. The unhappy Mitchell remained in this place, loaded with irons, till the year 1678, when it was resolved, by some new examples of injustice, to inflame to despair and madness the persecuted Covenanters.

Sir John Nelbit having been turned out of his office for want of ductility, Mitchell was again put on his trial for an attempt to assassinate an archbishop and a privy counsellor. His former confession was pleaded against him, and was proved, by the duke of Lauderdale, lord Halton, his brother, the earl of Rothes, and the primate himself. Lockart, the council for the prisoner, pleaded with a measure of learning and a power of reasoning which surprised the audience, that no extrajudicial evidence could be allowed in a court; but this being over-ruled, the promise of life was next asserted: and when, to the astonishment of every honest man, the witnesses denied that any such promise was made, the person, whom Sharpe had first sent to interrogate Mitchell, gave evidence of the solemn promise made by the primate; and Lockart produced a copy of the act of council, which made express mention  
of

of the promise given, and of the prisoner's having made confession upon it. Aaa. 1678.

ON Lockart's demanding, on behalf of the prisoner, for the council-books to be brought into court, the duke of Lauderdale, who was only present as a witness, and therefore had no right to speak, stood up and said, "That he and his noble brethren were not brought before the court to be accused of perjury; and added, that the books of council were the king's secrets, and no court should have the perusing them." This terrified the majority of the judges, who declared, that they were not to furnish evidence for the prisoner, but to judge of that which he brought; and that a bare copy, not attested upon oath, ought not to have been read. On these honest reasons the prisoner's defence was rejected, he was cast and condemned, and, as soon as the court broke up, the lords went up stairs, and, to their eternal shame, found the act recorded and signed by lord Rothes, as president of the council.

It was to have been imagined that such a public conviction would have saved Mitchell's life, in order to save the credit of the witnesses; but the unrelenting Sharpe rigorously insisted on his execution, saying, "That if assassins remained unpunished, his life must be exposed to perpetual danger." Then said Lauderdale, in an impious jest, "Let Mitchell glorify God in the Grass-market:" and accordingly he was executed in this place, at Edinburgh, in January, 1678.

It is difficult to imagine how it could be possible to reconcile any part of a civilized nation to such a complication of  
4
cruelty,



Ann. 1678. cruelty, injustice, and tyranny, which signalized the administration in Scotland; but the experience of all times convinces us, that there is no government, however flagitious, which will not find, in the most respectable stations in life, a sufficient number of corrupt individuals to support its power; that it is never affected by the loss of reputation; and that the voice of a mistaken interest, in the generality of mankind, has ever been found superior to the calls of conscience, or the dictates of honour.

\* DURING the absence of the duke of Hamilton, and the other discontented lords, the king allowed Lauderdale to summons a convention of estates at Edinburgh; and he found means to deal out the wages of corruption with such success, that this assembly, besides granting money, bestowed applauses on the duke of Lauderdale's conduct, and in their addresses to the king, expressed the highest contentment and satisfaction;

## C H A P. II.

*Papists plot.—Coleman taken into custody.—Murder of Sir  
Edmundbury Godfrey.—Sessions of Parliament.—Bed-  
loe's evidence.—Test act.—Money treasuries discovered by  
Mr. Montague.—Impeachment of the earl of Danby.—  
Earl of Danby's defence.—Prance's evidence.—Trial and  
execution of the accused Papists.—Prorogation and dissolu-  
tion of the Parliament.—Acts passed.—Character  
of Andrew Marvel.—Affairs of Ireland.*

THE peace of Nimwegen, at the same time that it Ann. 1678.  
exalted the character of Lewis in the eyes of all  
Europe, as a consummate politician, degraded, in an equal  
proportion, the conduct of the king of England. The Ca-  
valiers, and all those who from motives of interest, prejudice,  
or personal affection, had been instrumental in the re-esta-  
blishment of Charles in the power of his ancestors, now,  
according to the memorable prophecy of Sidney, found the  
king's glory in their own shame: they beheld with an ex-  
treme regret, and with some degree of self-condemnation, an  
opportunity offer to raise their country to a station more  
glorious than she had ever before attained; whilst her king,  
from criminal, mean, and pecuniary motives, had secretly  
sold his alliance to Lewis, and was bribed into an interest  
contrary to those of the people he had been called to protect:  
they beheld with a natural degree of resentment, the ingra-  
titude with which the whole party were treated; and Cava-  
lier and Presbyterian abandoned, neglected, or persecuted,



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as times and occasion required. They beheld, with fear and indignation, the head of the Protestant church conspiring against the security of the reformed religion, and entering into a concert with France to cut off a Protestant society, by the ruin of the States General; and they discovered in this prince and the heir presumptive to the throne, who had openly acknowledged his conversion to the Romish faith, a strong inclination to lay aside the use of Parliaments, and to set up a government on discretion, according to the model which they had observed in France. They beheld, in Scotland, the voice of freedom totally suppressed: from the slavery of that kingdom, they rationally inferred the arbitrary disposition of the king; and in the oppressive manner in which sovereign power was there exercised, they saw the miseries and hardships they had to endure after the total loss of their liberty.

As the slavery of the Scots was entirely owing to the animosities of party, it is to have been imagined that such a concurrence of circumstances, such grounds for fears and apprehensions, would have softened the rancour of faction, would have united churchman, presbyterian, and fanatic, in one firm bond of union, and on the principles of self-preservation, have diverted their different pursuits to one important object of national security. Thus would the speculist, unexperienced in the various absurdities of the human character, reason: but there is in party a spirit of opposition which sets at defiance every rational consideration, every moral, every religious principle; and even motives of self-preservation, where the object of danger is not immediate, give way to its irresistible violence.

THOMAS

VOL. VII.

These religious factions in England, which had taken place from the period of the Reformation, which had supported, even beyond the power of standing armies, the tyranny of the Tudor race, which had mightily increased in the late civil contentions, from a variety of mutual provocations, which times and opportunity afforded, were worked up to so high a pitch of implacable hatred against each other, at the period of the Restoration, that except a few individuals, whose liberal views of religion led them to more rational sentiments, the objects of national concern became with the very best but secondary. That general interest, which links individuals formed into societies in one common tie, was equally forgotten by all parties: the triumph over a hated sect, in a great measure, compensated for the insults offered to the whole community; and if the churchmen ever made opposition to the most dangerous pretensions of the court, it was not so much from any reluctance to diminish the freedom of the constitution, as the apprehension that an absolute power in the crown would be used to the establishment of Popery, or, what was equally dreaded, an universal toleration.

After the peace at Nimeguen, the troops were brought into England, and kept up under the pretence that there was not money to pay them off. It was believed that the lord Danby, who had so often brought his party to be near a majority, would order matters in a manner as should ensure the king's business in the next sessions of Parliament. The patriot, or country party, gave up all for lost; and many of them were determined to forbear their attendance, rather than by a fruitless conduct to expose themselves to the fury of the court, when a very unexpected accident changed the



Aug. 1628. whole face of affairs, and for a short time united the Protestant interest in a violent opposition to the measures of the court.

Popish plot.

On the 12th of August, one Kirby, a chemist, who had been some time employed in the king's laboratory, who was of a good family in Lancashire, and of the old cavalier race, accosted his majesty in the following terms, as he was walking in the Park: "Sir, keep within your company, your enemies have a design upon your life, and you may be shot in this very walk." The encouragement given to informers, from the commencement of his majesty's government, had produced a set of needy men, who, supporting themselves by this vile employment, had long been the pest of society, and the king, undoubtedly, imagining this to be of a similar kind with those pieces of intelligence intended to fling an odium upon the Dissenters, and on those who were styled the republican party, appointed Mr. Kirby to meet him at Mr. Chiffin's, his majesty's valet de chambre and confidant, into whose hands the money received from France was paid, and who transacted all those private businesses which were not fit for the public inspection.

According to the information given by Kirby to the king, one Grove and Pickering had undertaken to shoot him; and Sir George Wakeman, the queen's physician, to poison him. This intelligence, Kirby said, had been communicated to him by his friend Dr. Tonge, who was at hand with the detail, in writing, for his majesty's perusal.

Dr. Tonge, according to the account given by bishop Burnet, was a divine of a mean condition, credulous, simple, and full of projects and notions, but always regarded as a sincere

singere man. On his admission to the king, he produced Ann. 1678.  
a sketch of a plot, containing forty-three articles, which  
his majesty not having leisure or inclination to peruse, the  
two informers were sent to the treasurer Danby, to whom  
Tonge denied his having drawn the papers, and said, "They  
"were thrust under the door of his chamber." In about  
three or four days after, Tonge paid another visit to the earl,  
and informed him, that he had met the man who owned  
himself to be the author of the papers, and who had given  
him another paper of the same kind; but desired that his name  
might not be made known, lest the Papists, who were the  
contrivers of the plot, should murder him.

THE earl of Danby, who fondly imagined that the king  
would gain popularity by the being marked as a victim to  
the resentment of the Papists, posted to Windsor to his ma-  
jesty with these further informations, proposed that warrants  
should be issued out for the apprehending the persons named  
to be the assassins, and that the affair should be communi-  
cated to others of the council: but the king, who had a  
more shrewd judgment in consequences than the treasurer,  
refused to assent to these proposals, and commanded the trea-  
surer not to speak a word of the business, even to the duke of  
York: however, he assented that Grove and Pickering should  
be seized if they came to Windsor, which, it was asserted by  
the informers, they intended to do. Neither Grove nor  
Pickering appeared at Windsor; and the informers appre-  
hending that their credit would sink for the want of any  
substantial evidence, paid the treasurer another visit, in which  
they gave notice of a packet of letters from Jesuits con-  
cerned in the plot, which were to go to the post-house in  
Windsor, directed to one Bedingfield, a priest. On this  
packet



Ann. 1678. packet being delivered by the treasurer to the king, his majesty coldly replied, "That such a packet had been delivered some hours ago by Bedingfield, to the Duke of York, who told his highness, that he feared some ill was intended him by that packet; because the letters therein seemed to be of a dangerous nature, and that he was sure they were not of the hand-writing of the persons whose names were subscribed to them." This incident convinced the king in his suspicion, that the pretended conspiracy was one of those artifices with which the public had often been amused, when any grand design on their pockets, or their liberties, were projected; and that the arts of the court, by a counter-plot, were now intended to be turned against the government; and through this persuasion the affair would, in all probability, have dropped, if it had not been for the anxiety of the Duke of York, who, hearing that priests and jesuits, and even his own confessor, had been accused, was desirous that a thorough enquiry should be made by the council into the business.

The man who owned himself to be the author of the papers found by Dr. Tonge, was Titus Oates, the son of an anabaptist preacher, who had been chaplain to the famous colonel Pride. Oates had taken orders, and had been settled in a small living by the duke of Norfolk, but had fled to avoid the consequences of an indictment for perjury; was afterwards made chaplain on board the fleet, from which employment, it is said, that he was dismissed, on the imputation of unnatural practices. On this new misfortune Oates became a convert to the Romish catholic faith, and was sent over to the Jesuits college at St. Omer's, from whence he was dispatched on an errand to Spain, and thence returned

to

to St. Omer's : he was soon after dismissed from the service of the Jesuits, and lived in a state of indigence in London, at the time that he made known to Dr. Tenge a dangerous conspiracy against the king and the whole body of Protestants.

On enquiry after the informers, they were found together at Kirby's lodgings, or Vauxhall, where Oates, as he said, had fled for his security, and to comfort him in his sad condition ; but previous to their going before the council, they took the precaution to give evidence of the articles of the conspiracy to Sir Edmundbury Godfrey, a noted and active justice of the peace.

THE extraordinary intelligence delivered into the council by Oates, was to the following purport : That the Pope assumed a right to the possession of England and Ireland, on account of the heresy of prince and people, and had delegated this supreme power to the society of Jesuits, and to De Olya, general of that order, who, in consequence of the grant, had exerted every act of regal authority, and had supplied, by commissions under the seal of the society, all the chief offices, both civil and military : that lord Arundel was created chancellor, lord Powis treasurer, Sir William Godolphin privy-seal, Coleman secretary of state, Langborne attorney-general, lord Bellasis general of the papal army, lord Peters lieutenant-general, and lord Stafford paymaster ; and that a variety of inferior commissions were signed by the provincial of the Jesuits, and distributed all over England.

THAT all the dignities of the church were filled, and many of them with Spaniards and other foreigners ; and the provincial



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vinclal had held a consult of the Jesuits under his authority, where the king, whom they called the Black Bastard, was solemnly tried and condemned as a heretic, and a resolution taken to put him to death: that father Le Chasse, the French king's confessor, had consigned, in London, ten thousand pounds, to be paid to any man who should merit it by this assassination: that a Spanish provincial had expressed the like liberality: that a prior of the Benedictines had offered six thousand, but the Dominicans, tho' they approved of the action, had pleaded poverty.

THAT ten thousand pounds had been offered to Sir George Wakeman, the queen's physician, who demanded fifteen, that his demand was complied with, and five thousand pounds had been paid him in advance.

THAT four Irish ruffians had been hired by the Jesuits, at the rate of twenty guineas a piece, to stab the king at Windsor, and Coleman, secretary to the late dutches of York, had given the messenger, who carried the orders, a guinea to quicken his diligence.

THAT Grove and Pickering were to shoot the king with silver bullets; the former to receive the sum of fifteen hundred pounds, the latter thirty thousand mashes: that Pickering would have executed his purpose, had not the flint, at one time, dropped out of his pistol, and another time the priming.

THAT Coniers, the Jesuit, had bought a knife at the price of ten shillings, for the purpose of killing the king; and that letters of subscription were circulated among the Papists, all

over

over England, to raise a sum for the same purpose. That no Ann. 1678.  
less than fifty Jesuits had met in May last, at the White-horse  
tavern, where it was unanimously agreed to put the king to  
death: that this synod did afterwards, for the more conve-  
nience, divide themselves into many lesser cabals, or compa-  
nies, and Oates was employed in the carrying letters and  
notes from the one to the other, all tending to the end of  
murdering the king: that in one of these papers, a resolution  
was formally expressed of executing this deed, and it was re-  
gularly subscribed by all the society; and that a wager of  
one hundred pounds was laid, that the king should eat no  
more Christmas-pies.

THAT the great fire of London had been the work of the  
Jesuits, who had employed eighty, or eighty-six persons, for  
that purpose; and had expended seven hundred fire-balls, for  
which they had an ample return in the pilfer of goods from  
the fire, to the amount of fourteen thousand pounds.

THAT the Jesuits had raised a fire on St. Margaret's-hill,  
whence they had stolen goods to the value of two thousand  
pounds; another at Southwark: and it was determined, in  
like manner, to burn all the chief cities in England. That a  
paper model was already framed for the firing London: that  
the stations were regularly marked out where the several fires  
were to commence; and the whole plan of operations was so  
concerted, that precautions were taken by the Jesuits to vary  
their measures, according to the variation of the wind. In  
the great fire, it had been determined to murder the king;  
but he had displayed such diligence and humanity in assisting  
to extinguish the flames, that the Jesuits relented, and spared  
his life. That besides the assassinations and fires already de-



Ann. 1678. posed, insurrections, rebellions, and massacres were projected by the Jesuits all over the three kingdoms: that there were twenty thousand Papists in London, who would rise in twenty-four hours, or less; and Jennison, a Jesuit, had said, that they might easily cut the throats of one hundred thousand Protestants: that eight thousand Papists had agreed to take arms in Scotland: that the duke of Ormond was to be murdered by four Jesuits: that a general massacre of the Irish Protestants was concerted, and forty thousand black-bills were distributed for that purpose: that Coleman had remitted two hundred thousand pounds, to promote the rebellion in Ireland; and the French king was to land a great army in that island: that Poole, who wrote the Synopsis, and Stillingfleet, a controversial writer against the Papists, were marked out for assassination.

THAT when the Jesuits had effected their purposes, the crown was to be offered to the duke, on the conditions that he should receive it as a gift from the pope: that he should confirm all the papal commissions for offices and employments; ratify all past transactions by a pardon for irregular proceedings; and consent to the utter extirpation of the Protestant religion. That if he refused these conditions, he was himself to be immediately poisoned, or assassinated.

OATES, when he was examined before the council, betrayed an inaccuracy, which, in the mind of a candid hearer, would have discredited a story more probable, and more consistent, than was related on this occasion. Whilst in Spain, he had been carried, he said, to Don John, who promised great assistance to the execution of the Catholic designs; but when asked, by the king, what sort of a man Don John was, he answered

answered in a manner directly contrary to truth, that he was Ann. 1678.  
tall and lean: he totally mistook the situation of the Jesuits  
college at Paris; and though he pretended great intimacies  
with Coleman, and a personal knowledge of Wakeman, he  
knew them not when placed very near them.

THESE suspicious circumstances were undoubtedly weighty  
objections to the veracity of the informer; but the variety of  
particulars, of which the plot consisted, and even the absur-  
dities it contained, induced a belief, that it was above or  
below invention, except in the king, who, to mark his  
contempt for the evidence, set out for Newmarket the  
next morning, leaving the plot to the prosecution of the  
council. The council caused a warrant to be drawn for the  
arresting Coleman; but having omitted the direction of seiz- Coleman  
taken into  
custody.  
ing his papers, the earl of Danby, who was ever jealous of  
the influence of the duke of York, and the popish party,  
after the council was risen, got another warrant drawn for  
the purpose, and signed by five of the privy counsellors, in  
which was a clause inserted for the seizing papers.

THIS circumstance of the treasurer's conduct was attended  
with the most important consequences. The duke of York,  
(who with the assistance of the lord Clifford, the lord Arundel  
of Wardour, and lord Arlington, had planned the secret treaty  
with France, by which the Dutch commonwealth was to be  
destroyed, as a preparatory step to the re-establishing the uni-  
versality of the popish religion) from the time it became ne-  
cessary for his brother to make peace with that injured re-  
public, had entered into a strict correspondence with the court  
of France; and Coleman, partly on his own account, and partly



Ans. 1678. by orders from the duke, so early as the year 1673, had carried on an intelligence, by letters, with the king of France's two confessors, father Ferriers, and father Le Chaise, with the pope's nuncio at Brussels, and with other Catholics abroad. Coleman was a busy zealot, and had been deep in the intrigues of Barillon to procure the dissolution of a Parliament, which was equally the object of aversion to the Patriots, the Puritans, and the Papists.

THE evidence of letters, where the whole of a correspondence is not laid open, is undoubtedly very precarious; and in these intercourses, very innocent expressions, for want of a proper explanation, may carry a very criminal appearance: and unfortunately for the secretary and his master, the following passages in the letters to father Le Chaise, written in the year 1674, 1675, and 1676, were of a nature to give grounds for the blackest conjectures. "We have here a mighty work upon our hands, no less than the conversion of three kingdoms; and by that, perhaps, the utter subduing of a pestilent heresy, which has a long time domineered over this northern world. There was never such hopes of success since the days of queen Mary, as now in our days. God has given us a prince (meaning the duke) who is become, may I say, a miracle, zealous of being the author and instrument of so glorious a work: but the opposition we are sure to meet with is also likely to be great, so that it imports us to get all the aid and assistance we can. "I can scarce believe myself awake, or the thing real, when I think of a prince, in such an age as we live in, converted to such a degree of zeal and piety, as not to regard any thing in the world in comparison to God Almighty's glory, the salvation

salvation of his own soul, and the conversion of our poor Ann. 1678.  
kingdom."

In several passages of the letters, the interests of the crown of England, those of the French king, and those of the Popish religion, are spoken of as inseparable. The duke is said to have connected his interests unalterably with those of Lewis: the king, it is affirmed, was always inclined to favour the Papists when he could do it without hazard: that money could not fail of persuading him to any thing, if it was ever so much to his prejudice; it had such an absolute power over him that he could not resist it. That logic built upon money had, in the court of England, more powerful charms than any other argument; and for these reasons, it was proposed that the French king should remit the sum of three hundred thousand pounds, on condition that the Parliament should be dissolved; a measure to which the king, it is said, was sufficiently inclined, were it not from his hopes of obtaining money from that assembly. The Parliament had already constrained the king to make peace with Holland, contrary to the interests of the Popish religion, and of his Most Christian Majesty; and if they should meet again, they would surely engage him further, even to the making war against France.

It appeared from this correspondence, that the assembling the Parliament so late as April, in the year 1675, had been effected by the intrigues of the Papists and the French party, who thereby intended to show the Dutch and their confederates, that there could be no assistance from England; and the letters to the pope's nuncio contained importunate demands for money, to the same purport of supporting the interests



Ann. 1678. interests of the faction, by rendering the king independent of the Parliament.

COLEMAN had sufficient notice of his danger to have made his escape: he employed these critical hours in conveying away his papers, but unfortunately forgot a drawer under the table, with the papers relating to the years above-mentioned; and from this circumstance, it was concluded, that the secret was more important than could be discovered from those passages which accident had brought to public view; and no sooner were they made known, than they diffused a panic through the whole nation, and strengthened the opinion of the reality of a conspiracy, which, at first, was regarded as a contrivance of the courtiers, to ingratiate themselves with the people, and to procure money and power from the Parliament.

A GENERAL ferment was now raised in the nation: the courtiers were silent and hung down their heads, no man ventured to disavow the plot; and in the midst of this unexpected storm, which the friends of government neither knew how to divert, or allay, a very extraordinary incident completed the triumph of their enemies, and the patriots beheld, with pleasure, that revolution in the minds of the people, which neither the misconduct of the king, nor the prevalence of argument, had in any degree effected.

SIR Edmundsbury Godfrey, before whom Oates had attested his evidence, had been missing several days, when, after much search and many surmises, his body was found, on October 17, lying in a ditch, at Primrose-Hill: the marks of strangling appeared on his neck, which was broken, his  
brea

breast was disfigured with bruises, his shoes were clean, his money in his pocket, he had rings on his fingers, and his sword was thrust through him; but as no marks of blood appeared on his cloaths, nor any issued from the wound when the sword was withdrawn, the clumsy device was discovered, and plainly shewed, that the wound was given with the intention to make the public believe, that the deceased was his own murderer. As in these days of frugality wax-lights were never used but by persons of the most capital fortunes, or by the Romish priests, the circumstance of many drops of white wax being seen on Sir Edmundbury's breeches, united to the recollection that he had been the first magistrate before whom Oates's deposition had been taken, induced the conclusion, that this unfortunate man had been assassinated by the Papists.

THE violence committed on Godfrey, confirmed in the minds of the most incredulous every part of those criminal designs which had been ascribed to the Papists; an universal panic prevailed; the city prepared for its defence, as if an enemy was at hand; and the different factions, in church and state, forgot their mutual animosities in the idea of general danger. Undoubtedly, with the intention to exalt the indignation of the populace, the dead body of Godfrey was carried into the city, attended by multitudes, where it was publicly exposed in the capital streets, and viewed by all ranks of men. The funeral pomp was celebrated with great magnificence; the corps was conducted to its place of burial through the chief streets in the city, seventy-two clergymen marched before, above a thousand persons of distinction followed after, and, at the funeral sermon, two able-bodied divines mounted the pulpit, and stood on each side of the preacher, lest, according to the sarcasm of a virulent



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lent party writer, in paying the last duties to this unfortunate magistrate, he should, in the face of the people, be murdered by the Papists.

WHILE the nation was in this ferment, the Parliament were assembled; the king in his speech told them, that though they had given money for disbanding the army, he had found Flanders so exposed, that he had thought it necessary still to keep them on foot, and doubted not but this measure would meet with their approbation. His majesty, as usual, next informed the House, that his revenue lay under great anticipations, hinted a necessity to keep up the land and sea forces, and then proceeded to signify that he had been informed of a design against his life, by the Jesuits; but said, that he would forbear delivering any opinion on the subject, lest he should say too much, or too little; that he would leave that matter to the law; that, in the mean time, he would take as much care as he could to prevent all manner of practices by that sort of men, and of others who had been tampering in a high degree with foreigners, to bring in Popery.

THE chancellor, according to custom, enlarged on all the hints which had fallen from his majesty on the subject of keeping up the standing army, and the necessity of granting a supply; boasted that Flanders was preserved by the king's interposition only; laid the blame of the disgraceful and ruinous conditions on which the peace was made, entirely on the confederates; observed, that it was now become the interest of his majesty's person to protect the Protestant religion, and prevent the swarming of priests and Jesuits; described Coleman as a factor and agitator for Rome, and one who

who carried on pernicious designs, by a dangerous correspondence, with foreign nations; hinted that the Parliament need not concern itself about the plot, as it was under the consideration and would be fully left to the course of law; and ended his long speech in the following words, which, perhaps, merited more attention than any other paragraph to be found in all his florid harangues.

"THERE is so strange a concurrence of ill accidents at this time, that it is not to be wondered at if some very honest and good men begin to have troubled and thoughtful hearts; yet that which is infinitely to be lamented is, that malicious men also begin to work upon this occasion, and are in no small hopes to raise a storm that nothing shall be able to allay. If you can rescue the king's affairs from such a tempest as this, if you can weather this storm, and steer the vessel into the harbour, if you can find a way to quiet the apprehensions of those who mean well without being carried away with the passions of those who mean ill, if you can prevent the designs of those without doors, who study nothing else but how to distract your councils, and to disturb all your proceedings, then you will have performed as great and as seasonable a piece of service to the king as ever yet he stood in need of."

THE king, by the attention which he had found it necessary to give to the plot, and on the merit of two proclamations, which had been set forth to encourage, with the offer of reward, pardon and protection, the murderers of Sir Edmundsbury Godfrey, was in hopes to keep the question of the conspiracy out of the Parliament: but the earl of Danby,

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Robert Danby, who

might



Ann. 1672. who earnestly courted popularity \*, who was jealous of the Popish influence, and who entertained hopes that if the king's life was believed to be in danger by the Papists, that he would be more cordially loved by the nation, entered into opposite measures; and, in direct contradiction to the tenor of the king's speech, he, with great warmth and vehemence, opened the matter of the plot in the House of Lords.

THE king testified great resentment at the conduct of his minister, and said to him, "Though you do not believe it, you have given the Parliament a handle to ruin yourself, and to disturb all my affairs, and you will surely live to repent it."

DANBY had soon reason to acknowledge the superior sagacity of his master; for no sooner was the intelligence given in form to the Lords, than the cry of the plot was immediately echoed from one House to the other: an address was voted for a solemn fast; a form of prayer was composed for that solemnity; other addresses were voted for laying before the House such papers as might discover the conspiracy; for the removal of Popish recusants from London; for administering the oaths of allegiance and supremacy; for the denying, to all unknown and suspicious persons, access to his majesty; and for appointing the trained bands of London and Westminster, to be in readiness. Committees were appointed to scrutinize into the plot, as also to receive informations concerning the murder of Godfrey. Mr. Oates gave in his narrative at the bar of both Houses; and from a low

\* Though he had been concerned in the engagements entered into with the French king, he at a public dinner drank confusion to all those who were not for a war with France. *Burnet.*

indigent

indigent adventurer, found himself in an instant exalted in. Ann. 1678.  
to the character of the saviour of the nation: he was recommended by the Parliament to the king; he was lodged at Whitehall, protected by guards, and encouraged with a pension of twelve hundred pounds a year: and such attention was paid to every part of his charge, that the lords Powis, Stafford, Arundel, Peters, and Bellasis, were committed to the Tower, and impeached of high treason; and the House resolved, that upon the evidence which had already appeared before them, they were of opinion, that there had been, and still was, a damnable and hellish plot, contrived and carried on by the Popish recusants, for the assassinating and murdering the king, and for subverting the government, and rooting out and destroying the Protestant religion.

THAT good correspondence which in the public cause is so seldom to be met with between the two Houses, the Popish conspiracy had now thoroughly effected: the Lords complimented the Commons on their zeal, and acquainted them that they had resolved to sit *de die in diem*, forenoon and afternoon, and desired that they would do so too; and at this time the plot, which had hitherto rested on the evidence of Titus Oates, received additional support by the appearance of one William Bedloe, who had set out suddenly for Bristol on the publication of the proclamations relating to the murder of Godfrey; and when at Newberry he called for pen, ink, and paper, to write, as he said, to Mr. Secretary Coventry; and, according to the account given by a rank party-writer, he had the imprudence to say to a woman passenger who travelled in the same coach, that if the business



Ann. 1678. *finess of that letter succeeded, he would present her with a diamond ring.*

THIS new informer and adventurer was as unfortunate in the past circumstances of his life as the famous Oates: he was a man of low birth, and had, said Burnet, led a very vicious life; had passed by many false names, by which he had cheated a variety of people, and had gone over many parts of France and Spain, as a man of quality, in which country he had made a shift to live by his wits, or rather by his frauds.

Bedloe's evidence.

BEDLOE, having received a satisfactory answer from the secretary, procured himself to be taken up at Bristol; and when he appeared before the council, he gave intelligence of Godfrey's murder, which, he said, had been perpetrated in Somerset House, where the queen resided, and by Papists, who were in her majesty's service. On being questioned about the plot, he denied any knowledge of it, and asserted, that he had no acquaintance with Oates; but on the next day, when examined before the committee of lords, he declared, that two of the persons whom he had named as the murderers, viz. Walth and Le Phaire, had informed him that the lord Bellasis had a commission to raise forces in the North, the earl of Powis in South Wales; and that lord Arundel of Wardour had authority to grant commissions to whom he pleased: that ten thousand men were to be landed from Flanders in Burlington-bay, and immediately to seize on Hull: that Jersey and Guernsey were to be surprised by forces from Brest; and that a French fleet was all last summer hovering in the Channel for that purpose: that the lords Powis and Peters were to form an army in Radnorshire, to be

be joined by another army, consisting of twenty or thirty thousand religious men and pilgrims, who were to land at Milford Haven, from St. Jago, in Spain: that there were forty thousand men in London, besides those who would, on the alarm, be posted at every alchouse door, in order to kill the soldiers as they came out of their quarters: that lord Stafford, Coleman, and father Ireland, had money sufficient to defray the expence of all these armaments: that he, Bedloe, was to receive four thousand pounds, as one who could murder a man; as also a commission from lord Bellasis, and a benediction from the Pope: that the king was to be assassinated; all the Protestants massacred who would not seriously be converted; the government offered to one if he would consent to hold it of the church: but if he should refuse that condition, the supreme authority would be given to certain lords under the nomination of the Pope.

The account which Bedloe gave of his first employment among the Jesuits was, that he carried a letter from the lady-abbess of the English nuns at Dunkirk to Sir John Warner, and other Jesuits at St. Omer's, which he opened by the way, and found it to be a recommendation of himself, as one wholly fit to be employed in the design: that he was sent from thence to Antwerp, and after that to Doway, to be initiated by degrees: that at the last of these places he was informed in confidence, that a design was now in hand to make England happy, both as to body and soul, by which his fortune was to be made, if he continued faithful to the end: that he was sent from thence to England with a Latin letter to father Harcourt, after receiving the sacrament four times, as the seal of secrecy. That Harcourt employed him as a messenger for four months, at the end of which time he was



Jan. 1678. posted to Paris, and thence, with a great packet of letters, to Monmouthshire, containing, as he was informed, orders to several persons to hold a consultation, as also intelligence, that at Rome, and all places beyond the sea, the business went on very well: that after this he came again to London, and kept company with Harcourt, Le Phaire, and other Jesuits, by whom he was again sent to St. Omer's, and thence to Doway, where Dr. Gage, the rector of the English college, informed him, that in a year, or something more, they did not at all question but to be established at Christ-church college in Oxford, and to see England flourish in the true religion of Rome.

CONCERNING the murder of Sir Edmundsbury Godfrey the evidence deposed, That he had been offered by Le Phaire and Walfh, about the beginning of October last, a reward of four thousand pounds, if he would be one of the four, or six, who should kill a man who was a great enemy to their designs. This Bedloe acknowledged that he at first agreed to; but, afterwards, not liking the proposal, he declined the act. Notwithstanding this, the infatuated Le Phaire, after the fact was committed, let Bedloe into the whole secret, informed him, that the person was killed: that the body lay in Somerset-house: that he might still have half the reward before offered if he would only help to remove it; and that himself, with Walfh, and the lord Bellasis' gentleman, Atkins, clerk to Mr. Pepys, secretary to the navy, and one which the evidence believed to belong to the Queen's-chapel, were to be the other assistants: that the said Le Phaire, then led him by the hand to the room where the body lay: that by the help of the dark lanthorn which Le Phaire took from under his coat, the deponent saw the persons before named, and knew them

them to be Le Phaire, Walsh, the person presumed to belong Ann. 1678.  
to the chapel, the servant of lord Bellasis, and the clerk to  
Mr. Pepys: that they all agreed to carry the body in a chair  
to Clarendon-house, and thence, in a coach, to the place  
where it was afterwards found: that they threw off a cloak,  
which lay on the body, and shewed it to the deponent: that he  
asking who it was, they told him an old man, who belonged  
to a person of quality, who had taken some examinations  
tending to a discovery of their design: that the deponent  
asking, why it was not more proper to kill the person of  
quality himself? he was answered, No, for this man had the  
depositions in his own custody, and that their design of  
getting him thither was to force him to send for them: that  
on his declaring that he had sent the examinations to court,  
and refusing to answer any more questions, Le Phaire,  
Walsh, the lord Bellasis' gentleman, and the other two, stifled  
him with a pillow, as they thought; but finding that he still  
struggled for life, completed the job by strangling him  
with a long cravat; and that they had made a wound in  
his body and laid his sword by him in the field, that it  
might be thought he had killed himself. Bedloe, on being  
asked further particulars of the plot, after some recollection,  
said, that he had been informed by Le Phaire, that Gôngers,  
who had undertaken to kill the king, was the lord Bellasis'  
confessor; as also, that if any person concerned in the plot  
was imprisoned, they would, by one means or another, kill  
them before they should come to their trial, though they burnt  
the prisons where they were in custody; and finally, that Le  
Phaire, Pritchard, Lewis, Meins, Walsh, England, Latham,  
Stapleton, Sheldon, and Dr. Gage, had often told him that  
there was not a Roman catholic in England of any quality  
or credit, but was acquainted with the secrets of the Papists,

and



Ann. 1678. and had received the sacrament to be assistant in the design of carrying them on.

In a subsequent examination before the Commons, Bedloe added that lord Carrington and lord Brudenel were also in the conspiracy for raising men and money against the government. These noblemen were immediately taken into custody, as were all the other persons mentioned in Oates and Bedloe's narrative; and the lords committees were furnished with blank warrants, and authorised to fill them up with what names they pleased, with a salvo to the members of the House.

It is remarkable, says Mr. Hume, who writes very warmly on the fatal incredulity which possessed the nation at this time, that the only resource of Spain in her present decayed condition, lay in the assistance of England; and so far from being in a situation to transport ten thousand men, for the invasion of that kingdom, she had solicited and obtained English forces to be sent into the garrisons of Flanders, which were not otherwise able to defend themselves against the French: the French too were at this time in open war with Spain, and yet are supposed to be engaged in the same design against England, as if religious motives were become the sole actuating principles among sovereigns.

These are, undoubtedly, striking circumstances; and it would be endless to recount the number of obvious contradictions and glaring absurdities to be found in the informations given in by these needy adventurers. Four ruffians were sent by Coleman to stab the king at Windsor, for the small reward of twenty guineas; and Wakeman was to have fifteen

teen thousand for a safer way of killing him. Bellasis, who Ann. 1678. was appointed the general of the conspirators forces, was almost perpetually ill of the gout; lord Petre, the lieutenant-general, was a weak man, and never had been entrusted with a military command; Radcliffe, the major-general, had not stirred from his house in the North during the whole summer season, previous to the time that the evidence was given in; general Lambert, who was also charged with the being engaged in the conspiracy, had been confined in prison ever since the Restoration, and had now lost his memory and his senses; and, what is yet more remarkable, Oates, who had often said, that he had gone over to the Papists on the purpose of betraying them, had not kept any one of those many commissions which he attested had gone through his hands in support of his evidence.

THAT enlightened sense of mankind which has been the boast of several centuries, has seldom been found proof against the lowest impostures, and the worst concerted fictions; and, what is highly irrational and absurd, is found, in general, to gain an easier admittance into public opinion than evident truths, supported by incontestable arguments; yet the numberless inconsistencies with which the Popish plot abounds, united to the suspicious characters of the witnesses, must, but for a variety of untoward incidents and circumstances, which, in a great measure, corroborated their informations, have divided the opinions of the public, and created suspicions in the minds of the candid and the intelligent, and for the justification of several worthy and eminent characters, who concurred in the belief of the plot, and the prosecution of those unhappy persons charged with the conspiracy; and also to shew how little weight is to be given to



Ann. 1678. the evidence of interested persons, though strengthened by the solemnity of oaths, or, to what is called presumptive proof, it is necessary that the reader should attend to those circumstances, which, at this period, deceived the wisest and the best of the nation; and, to this day, renders the Popish plot a mystery beyond the depth of any historian to fathom, and which, in all probability, will continue to the end of time, involved in obscurity and contradiction. Coleman's letters appeared authentic confirmations, that a conspiracy was on foot, and Godfrey's murder, whilst it shewed the infatuated judgments of the party, yet it served to convince the public of the truth of those dark and bloody counsels which had long been charged on the Jesuits. Langhorn, a Papist, an eminent lawyer, and much entrusted by the party, was accused by the informers with the having received one of the treasonable commissions from the Jesuits; and it is recorded by Burnet, that upon the first breaking out of the plot, before Oates had spoken a word of commissions, or had accused Langhorn, that his son, a hot and indiscreet Papist, having been on the purpose engaged by his mother, who was as zealous a Protestant, in discourse, had boasted that the designs of the party were so well laid, that it was impossible they could miscarry, and that his father would be one of the greatest men in England, for he had seen a commission from the Pope constituting him advocate-general; and among the papers of the Jesuits, which were seized when their persons were secured, there were two letters found which seemed to confirm the truth of the charges laid against them. One of these letters mentioned the sending over patents, of which it was said in the letter that the writer guessed the contents, though the patrons of the Jesuits at Rome carried matters so secretly, that nothing was known, but as they thought fit. The other letter was writ-

ten to a Jesuit in the country, citing him to come to London Ann. 1678.  
by the 24th of April; to which was added, I need not en-  
join secrecy, for the nature of the thing requires it. The  
24th of April was the day on which, according to Oates's  
evidence, the Jesuits had held their concert, and on which  
fifty of them had signed their resolution of killing the king \*.

A PETITION from the Lower House, humbly desiring that  
his majesty would order Coleman's letters to be published, for  
the satisfaction and information of the people, as it affected the  
duke of York in a very particular manner, gave a very serious  
alarm to the court; and the king, who from the beginning had  
highly ridiculed the plot, found it necessary to adopt in pub-  
lic the popular opinion, and to endeavour to allay those  
jealousies which had been long growing, and which were  
now come to a formidable height. After thanking the two  
Houses for the great and extraordinary care which they had  
already taken, and did still continue to shew for the safety  
and the preservation of his person, he assured them that he  
was ready to join with them in all the ways and means which  
might establish and form a security of the Protestant religion,  
as their hearts could wish; and this not only during his time,  
of which he was sure that they did not fear; but in future  
ages, even to the end of the world, and that he was come to  
assure them, that whatsoever bills they should present to be  
passed into laws, to make them safe in the reign of his suc-  
cessor, so they did not tend to impeach the right of succession,

\* The Jesuits, when examined on the contents of the first letter, said,  
that the patents mentioned were only patents with relation to the offices  
in their order; and, on the second, that it was a summons for meeting  
according to the rule of their order, and they being to meet during the  
sitting of Parliament, was the particular reason for enjoining secrecy.



Ann. 1678. nor the descent of the crown in the true line; nor to restrain his power, or the just rights of any Protestant successor, they should find, from him a ready concurrence: and he desired the two Houses to think of some more effectual means for the conviction of Popish recusants, and to expedite their councils as fast as they could, that he might have an opportunity of shewing how ready he was to do any thing which might give satisfaction and comfort to such dutiful and loyal subjects.

THE two Houses thanked his majesty for his most gracious words: but the Commons, on receiving information that since the meeting of Parliament and discovery of the Popish conspiracy, several commissions had been given to Popish recusants to serve in the army; as also warrants that they should be mustered, notwithstanding they had not taken the oaths and subscribed the declaration as required by act of Parliament, were again thrown into a great heat; and Sir Joseph Williamson, secretary of state, who had countersigned the warrants, was immediately called upon, and acknowledging the fact, was sent to the Tower, but obtained a release from his confinement by the power of the prerogative; though the Commons excused their conduct on the imminent danger to which the king's person was exposed, and humbly desired his majesty not to discharge the prisoner.

Test. Act.

THIS circumstance of conduct was not calculated to appease either the resentment or the fears of the Parliament, and a bill was immediately brought in to disable all persons to sit in either House who refused to take a test against Popery; in which not only transubstantiation was renounced,

but

but image-worship of all kinds was declared to be idolatrous, Ann. 1678. in which were clauses which comprehended the servants of the king, queen, duke, and dutches; and in this moment of real or imaginary danger, the Peers were prevailed on to give up a right which they had a few years before represented to be radically inherent in the peerage.

THE duke, with much earnestness, moved, that an exception might be admitted in his favour, and, with tears in his eyes, told the House, that he was now to cast himself on their kindness, in the greatest concern which he could have in the world, and protested, that whatever his religion might be, it should only be a private matter between God and his own soul, and never should appear in his public conduct. This condescension had its effect; the duke carried his point by two voices, and on passing the bill entered his protest, and was followed by the duke of Norfolk, the earl of Berkshire, with the lords Hunston, Audley, Stourton, Cardigan, and Teynham.

THE licentiousness of the king's conduct, the contempt he frequently expressed in conversation for the queen's understanding and person, the little affection he was known to have for her, and the inclination he had shewn to get rid of his matrimonial connection, encouraged the informers with the hopes that they should render themselves of personal consequence to his majesty, if they could assist him with the means to break a connection which had afforded him little domestic comfort, and which, on account of the barrenness of the queen, had opened to the nation the tremendous prospect of a Popish successor.

FULL



Ann. 1678.

FULL of these speculations, Oates sent a message to the king, that he had matters to swear against the queen, if he would give way to it; and his majesty with the intension to give Oates line enough to ruin himself and expose his falsehoods, gave his assent: on which a deposition before Mr. Secretary Coventry was taken upon oath, That in the month of July Oates saw a letter from Sir George Wakeman to Richard Thimbleby, in which he assured him, that the queen would assist him to poison his Most Sacred Majesty; and that in the latter part of the same month, the deponent waited upon Keines, Langworth, Harcourt, and Fenwick, Jesuits, in Somerset House, where the queen then was; and in an antichamber where he was left, did hear the queen say, that she would take those affronts no longer, which had been done unto her, and that she would revenge the violation to her bed; adding, that being immediately after presented to her majesty, he saw no body in the room but her majesty and the said fathers; that he heard the queen say, she would assist in the propagation of the catholic religion; that several sums had been given by the queen to pervert his majesty's subjects; and that five thousand pounds had been paid to the Jesuits, in order to destroy the king's person, and subvert religion and government. Several other circumstances were mentioned by Oates, to strengthen and support his evidence; and though the two witnesses, Oates and Bedloe had, on their informations, declared, that there were no other persons of distinction whom they knew to be concerned in the plot; yet Bedloe, on the encouragement which was given him by the chancellor of a pardon, for all concealments of treason, confirmed the charge against the queen, by deposing, that a consult was held at Somerset House, at which the queen was present, with the lords Bellasis and Powis; also Coleman, Le Phaire, and other Papists,

Papists, in which, according to what Coleman told Bedloe, it *Aug. 1678.* was determined to kill the king.

THE Commons, in an address to the king, that the queen, and all her family, and all Papists, and imputed Papists, should be removed from Whitehall, gave countenance to the evidence: but the Lords, who had before refused their assent to the address concerning the publishing of Coleman's letters, and whose protection the queen, in an answer to an address of thanks for the giving way to a search in Somerset-house, had solicited, again refused their concurrence. Oates was put under close confinement by an order of the privy council, and was obliged to make application to the Parliament, in order to recover his liberty.

DURING this agitation of men's minds, the Parliament gave attention to a circumstance which ought never to be neglected in times of the greatest tranquillity: they passed a bill, by which it was enacted, that a regular militia should be kept in arms during six weeks of the year, and a third part of them to do duty every fortnight of that time; but Charles peremptorily refused his assent, and told the Parliament, that he would not, were it for half an hour, part so far with the power of the sword, but offered to pass any other bill, for ordering the militia, provided it was left in his option to assemble or dismiss them as he thought proper. Thus in the short space of seventeen years, this over-loyal Parliament, which had even disgusted the most sensible of the Cavalier faction with the sacrifices they had made of the popular part of the constitution, was accused, if not suspected, of an intention to tread in the paths of their rebel predecessors; and during this period had, sat long enough to repent of the rashness of de-

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priving



Ann. 1678. priving themselves, in one fond and credulous moment, of a privilege which their predecessors had spilt such an effusion of blood to obtain.

THE Parliament were enraged at the king's suspicions, and in order to shew that no danger to the liberties of the constitution could be equal to the power of the sword, in the hands of the crown, declined accepting a militia act on the king's plan; and notwithstanding Bedloe's formidable information of intended invasions from abroad, immediately voted, that all the new raised levies should be disbanded, and on the reason, that the money granted in the last year for disbanding the army, was employed for the keeping it up. In the bill of supply, which they passed for the purpose of disbanding, they not only appropriated the money by the strictest clauses, but ordered it to be paid into the chamber of London.

THE Lords were startled at a clause which threw so severe a reflection on the king and his ministers; and in behalf of the crown ventured to interfere, in what the Commons had so often claimed as their undisputed privilege, the granting of money in their own way: they raised doubts, and proposed amendments, which were all rejected, and thus the important business of disbanding the army hung in suspense.

Mr. Montague, the king's ambassador, of whom mention has been repeatedly made in this history, was a man of an intriguing spirit, and a restless ambition: he had taken every opportunity to press into the confidence of the court, and to be a negociator in the secret and criminal treaties, which were carried on between Charles and the French government, with a view either to obtain the office of secretary of state as a reward for his

his services, or to have it in his power to ruin the minister, in case he was disappointed. Montague likewise exerted all the powers of address and courtship, to gain the confidence and the patronage of Danby; but this lord, who dreaded a formidable rival in the intriguing spirit of Montague, rather traversed than forwarded his suit, and excused his conduct to the ambassador, on the plea of a pre-engagement to Sir William Temple. Montague, enraged at his disappointment, meditated the fall of the minister, and engaged the service of an astrologer, on whose predictions Charles had great faith, to foretel the king's ruin if he continued the treasurer in his office.

In individuals, who are so unfortunate as to be harassed with the perturbation of exalted and unruly passions, the object of one violent desire often interrupts the attainment and fruition of another, and Montague had the weakness, in the hour of fondness and credulity, to disclose to the duchess of Cleveland, a vicious and unprincipled woman, his designs against the treasurer, and, in his conversation on the subject, took great freedoms with the character of the king and his brother. On some steps which Montague had taken, to interrupt the progress of an intrigue between the duchess and a young Frenchman, she disclosed the conversation to Charles; and Montague perceiving that he had no more favours to expect from the court, endeavoured to console himself, for his double disappointment in love and ambition, with that gratification which revenge affords to mean and ungoverned minds: and, in opposition to the commands of the king, left Paris, and returned privately into England; where he was no

\* The duchess of Cleveland resided in France, after the connection between the king and the duchess of Portsmouth had taken place.



Ann. 1678. sooner arrived, than he dispatched his agent, Mr. Brisbane, to procure his election to the first vacant seat in Parliament, and was returned for the town of Northampton.

Mr. Montague was too well acquainted with the views, the prejudices, and the intrigues of the court of France, to neglect the opportunity of cultivating a close connection with Barillon; and a bargain was soon concluded between these politicians, in which it was agreed, that Mr. Montague was to be gratified with a sum of one hundred thousand crowns, or a pension of fifty thousand livres, during his life from Lewis, provided the ruin of the treasurer, by a parliamentary prosecution, should take place at the end of three months. An intimation of this intrigue being carried to the treasurer, he endeavoured to be before-hand with the ambassador, who had cultivated a correspondence with one Con, the pope's nuncio, for the purpose of drawing the secrets of the court of England from him. On the intelligence of this correspondence, Mr. Montague's papers were seized, and a message was signified to the House of Commons, that his majesty had received information, that his late ambassador in France, Mr. Montague, a member of that House, had held several private conferences with the pope's nuncio, without any direction or instruction from his majesty.

Mr. Montague had laid his designs too deeply, and with too much precaution, to be easily circumvented: he had put those letters, which were of importance to the business he had undertaken, in sure hands; and on the occasion of his majesty's message, assured the House, That the affair before them was a mere artifice, contrived by the treasurer to screen himself: but tho' almost all his letters were seized, he had, by good luck, saved

saved the most material, which he conceived might tend very much to the safety of his majesty's person, and the preservation of the kingdom. By an order of the House, a message was immediately dispatched for the papers in question, and two letters were produced, written from the treasurer Danby, in the beginning of the year, during the negotiations for a general peace at Nimwegen, where Montague was directed to make a demand of money from France, and where it was proved, that the king was desirous to sell his good offices to Lewis, contrary to the general interests of the confederates, to the interests of his kingdom, and to the important trust which had been reposed in him. At the bottom of one of these dispatches was written, in the king's hand, the following words: "This letter is written by my order, C. R." a circumstance which rather inflamed than appeased the resentment of the Commons, who rationally concluded, that the king had all along acted in concert with the French court, and that every step which he had taken, in conjunction with the allies, had been illusory and doubtful.

Ann. 1678.

Money treaties discovered by Mr. Montague.

The earl of Danby endeavoured to divert the storm by attempting to prove, that the French court interested itself in his disgrace: but this circumstance, tho' true, was in reality no vindication of his conduct, and the Commons accordingly voted an impeachment of high-treason against the minister. The impeachment consisted of six articles, and were to the following purport: That he had traitorously engrossed to himself regal state, by treating in matters of peace and war with foreign princes and ambassadors, and by giving instructions to his majesty's own ambassadors, without the participation of either secretaries of state, or his majesty's council.

Impeachment of the earl of Danby.

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THAT



Ann. 1678.

THAT he had traitorously endeavoured to subvert the ancient and well established form of government, and instead thereof, to introduce arbitrary power; to effect which he had caused an army to be raised, under pretence of a war against the French king, and had continued that army contrary to act of Parliament, at the same time misapplying the money given for the raising thereof, and wilfully neglecting to take security of the pay-masters.

THAT to hinder the meetings of Parliament, and to deprive his majesty of their safe and wholesome councils, he did procure a great sum of money from the French king, and propose and negotiate a peace for the said monarch, upon terms disadvantageous to the interests of his majesty and his kingdoms.

THAT he was popishly affected, and had traitorously concealed, after he had noticed the horrid and bloody plot that he had suppressed the evidence, and reproachfully dishonoured the king's witnesses.

THAT he had wasted the King's treasure, by issuing for unnecessary pensions and secret service, to the value of two hundred thirty one thousand six hundred and two pounds, within two years, and had removed two of his majesty's commissioners in the Exchequer for refusing to consent to such unwarrantable actions.

THAT he had by indirect means, procured from his majesty to himself divers considerable gifts and grants of the ancient revenue of the crown, even contrary to an act of Parliament.

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The minister found more friends among the Peers than *Ann 1678* could have been expected from the zeal for reformation, which appeared in that House on the opening the sessions. When the articles of impeachment were carried up by the Commons, on a motion being made that the treasurer should withdraw, it was over-ruled by a majority of twenty; and though the five Popish lords had been committed without ceremony, on the oath of a single witness, the lords refused the commitment of the treasurer, at the suit of all the Commons of England, in their representative capacity.

The arguments which prevailed on the lords for a partiality, which, undoubtedly, tended rather to inflame than to appease the well-grounded resentment of the public, were founded on the plea that the charge was not within the statute of the twenty-fifth of Edward the Third; but if parliamentary prosecutions on the abuse of office, should be limited to the express words of this statute, no minister can be made responsible for all the evils which an inordinate ambition may, in a critical conjuncture of circumstances, at any time bring on a nation whose form of government necessarily occasions an almost unbounded trust to be lodged in the hands of individuals. There are, undoubtedly, many ministers who, to preserve that importance in the state which an unpopular conduct endangers, and to secure the opportunity of enjoying, without molestation, the reward of their corrupt services, and of enriching themselves, at the expence of their fellow-citizens, would, without scruple, levy an army to be used against the people: but what man in his senses would make war against a master to whose partiality and power he was indebted for the support of all those externals which he esteemed good. It is plain, that the statute of Ed-



Ann: 1678. ward the Third, was obtained by the Commons for the protection of private subjects, against the violence of power and the abuse of law; and though drawn up with great care in a variety of cases, has not been found proof against the vicious eloquence of the bar, the corruption of judges, and the tame submissive ignorance of juries, who commonly prove but ill guardians of the blood of their fellow-citizens: but surely in a country where there are a variety of interests in a manner distinct, and even opposite to the safety and happiness of the community, where freedom is to be supported by balances, so soon thrown out of order, that not half a century has ever passed without such a considerable alteration as produces a total change in the spirit, if not the mode of government, the minister who takes upon himself the important charge of directing the helm of state, ought to be subjected to an adequate punishment for crimes of the highest nature against society, and which no individual but one so trusted can have the opportunity of committing. *Salus populi*, in this case, is undoubtedly the supreme law; and every candid reasoner must observe the obvious advantages of such a necessary check to the ambition of the corrupt, the profligate, and the inefficient, and the rendering these important places of trust alone desirable to the intelligent, the brave, the generous, and the honest.

Earl of Danby's defence.

On that article in the charge of the Commons which implied treason, the earl of Danby in a speech to the lords, confined his defence entirely to the not having entertained any treasonable designs against his majesty's person and power; and to all which had been done contrary to the interests of the people, and the acting in defiance of an act of Parliament, he urged the unconstitutional plea of obedience.

To

To the accusation of illegal and exorbitant gain, his lordship asserted, that his moderation had been such that there was matter to accuse his prudence, in not having done for his family what he justly might; and after having exculpated himself in a manner more satisfactory, on the charge of stifling the popish plot, and the being popishly affected, he addressed himself to the selfish rather than the public feelings of the lords, by insinuating that their compliance with the Commons would affect their safety and seats in the House; and as the voice of party had generally condemned the fate of Strafford, as an example dangerous to the just liberties of the subject, he warned them not to assist in the making of treason by accumulation.

The king, according to custom, was present on this occasion; and it is remarkable, that the earl of Danby, in the course of his defence, treated his majesty with so much freedom as to assert, that what was liable to misconstruction in Mr. Montague's charge, lay against the king; and that the French held his person and government under the last degree of contempt, for which reason alone, were there no other, he would never advise his majesty to trust to their friendship.

It has been observed, that the earl of Danby defended himself in a manner satisfactory, on the charge of stifling the popish plot: and as all assemblies of men are commonly guided by sudden impressions, rather than by judicious distinctions and discriminations, the treasurer found great advantage in the being able effectually to subvert one article of the charge: and it is also observable, that a younger son of the earl, either from an uncommon zeal in the cause of the public, or from policy, joined his father's prosecutors, and made



Ann. 1678. made it his request that this fourth article should stand as a part of the charge; and the earl of Strafford stimulated, it is said, by resentment against the treasurer, for obstructing a pension he had from the crown, was one of the most violent of the party which appeared against him in the Upper House.

The disagreement which had taken place between the two Houses, on the lords refusing to commit the treasurer, did not obstruct the prosecution of the plot; the Parliament continued to sit during the whole Christmas holidays; the five popish lords had been severally impeached at the bar of the Upper House, and both Lords and Commons joined in an address, that his majesty would issue his commands to all the sheriffs, justices, mayors, &c. to apprehend, disarm, and secure, all popish recusants, and all others who should, or might, be justly suspected to be Papists, and to oblige them to give in sufficient bail for their good behaviour. Early in the sessions, at the instance of the Commons, informers of all kinds had been, by proclamation, invited to come in, on the considerations of indemnity and reward. This, as might be expected, produced a variety of informations, which kept up the fears and the resentment of the public; but which, though entered into the Journals of the Lords, were not sufficiently authenticated to find a place in the records of the courts of justice: at length, on the 20th of December, John Wren, who lodged in the house of Miles Prance, a silversmith, in Covent Garden; Joseph Hail, and a third person, obtained a warrant against their landlord, on the presumption that he was one of the murderers of Godfrey, grounded on his having absented himself from his house at the time that Godfrey was missing; on his having hired

hired a horse to go out of town; on his having a brother <sup>Ann. 1678. A</sup> who was a priest; and on his having dealt with Grove, Pickering, Fenwick, and Ireland. Bedloe, on the first sight of the prisoner, started, and declared with an oath, that he was one of the rogues whom he saw with a dark lanthorn about the body of Godfrey. Prance, when he was taken before the lords committee, denied the charge; but in a manner so little to the satisfaction of their lordships, that he was committed to Newgate, and by particular order put in heavy irons, and lodged in the condemned hole.

THE courage, or the virtue of Prance, was not equal to <sup>Prance's evidence.</sup> the resisting the extreme rigour with which he was treated; and he acknowledged himself an accomplice in Godfrey's murder; confirmed Bedloe's evidence against Hill, Green, and Berry, by a variety of additional circumstances; and also gave in depositions relating to the plot: but being again summoned before the king and council, on the 29th of the same month, he made it his request to speak with his majesty alone, in whose presence he retracted the whole story, and declared with great passion and earnestness, that the men he had sworn against were all innocent, and that himself was forsworn. This wretched man, on the being disappointed in the hopes he had formed from the king's protection, and unable to support the hardship of a prison, or the terror of punishment, was induced to confirm his first information, and was admitted as a sufficient evidence.

IT is justly observed by those who represent the popish plot as a mere fiction, that the promise of a pardon is a strong temptation for a man who finds himself exposed to the severity of a capital punishment, to effect a jail-delivery at the



## HISTORY OF ENGLAND.

**Ann. 1678.** expense of the innocent as well as the guilty; but at the same time that these strict lovers of justice are, on some grounds of reason, very severe on the zealous prosecutors of the popish plot, for the taking this method to produce a full discovery, they seem to forget that it has been the regular proceeding of government, in all ages, and, in all probability, in all ages, has been fatal to inoffensive citizens. The chief duties of sovereign power is to preserve the morals as well as the lives of the people committed to its care; the tempting, therefore, the subject to the crimes of treachery and perjury, with the hopes of reward, or pardon, and the exempting those from punishment who add treachery to capital offences, is a mode of corruption which tends to weaken, if not destroy, in the minds of the community, all those principles of honour and integrity, on which the happiness of society depends, and is scarcely to be justified even by the exigence of an occasion.

**Burnet.**

On the day that France was first examined, one Dugdale, who was bailiff to lord Aston, gave information of several circumstances relating to the free manner in which the Jesuits communicated their design of killing the king; and Carstairs, who had acted many of the same kind of villainies in Scotland, happening to go into an eating-house in Covent Garden, which was over against the shop of Staley, a popish banker, pretended that Staley, being in company in the next room, he heard him say, in French, "That the king was a rogue, and persecuted the people of God; and that he himself would stab him if no body else would." These words were written down, and the next morning Carstairs and one Sutherland, who was also a Scotchman, visited Staley, and demanded a sum of money to buy off their evidence. Staley, who was then under

some difficulties, determined rather to submit to the occasion Ann. 1648.  
than to be pillaged by these villains. He was seized, tried, and  
condemned; and though offered his life on the terms of dis-  
covering the plot, protested to the last, that he knew of none; Trial and  
execution of  
the accused  
Papists.  
and that he had not said the words which had been sworn  
against him, or any thing to such a purpose.

AFTER repeated endeavours had been used to make Cole-  
man turn evidence against his supposed accomplices, this un-  
fortunate man was brought to his trial: his letters were pro-  
duced against him; as also an artful declaration, which he  
had prepared in his majesty's name, shewing his reasons for  
dissolving the Parliament. These transactions were, undoubt-  
edly, in one sense, criminal; yet they came no more within  
the statute of the twenty-fifth of Edward the Third, than  
the charge against the earl of Danby; and though no men-  
tion is made in them of any design against the king's life,  
or the levying war against him, they were, by the subtlety  
of the lawyers, confounded with the improbable tales of  
Oates and Bedloe, and accordingly, Coleman received sen-  
tence of death, which was soon after executed, and which  
he suffered with calmness and constancy, and to the last per-  
sisted in his innocence.

IRELAND, who, it was asserted, had signed, together with  
fifty Jesuits, the resolution of killing the king, with Grove  
and Pickering, who had undertaken to shoot him, were  
next brought to trial: the evidence against them were con-  
fined to Oates and Bedloe. Ireland affirmed, that he was in  
Staffordshire all the month of August, in which Oates's evi-  
dence made him in London: this assertion was proved by the  
evidence of Ireland's sister and mother, and Sir John South-

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Ann. 1678. cot's coachman, who affirmed, that he took the prisoner up at St. Albans on August 5th, and drove him to lord Aston's seat at Tixwell; and thence the 10th to West Chester; and by Mr. Gifford, who witnessed, that he saw him at Wolverhampton a day or two after St. Bartholomew's day, where he continued 'till the 9th of September; and that he could bring forty witnesses who could swear the same thing. When the prisoner was asked why he did not apply for the testimony of Sir John Southcot, at whose house he was at this time a visitor, he replied, that he was expressly denied the liberty of sending for witnesses, or the use of pen, ink, and paper; and it is worthy remark, that this cruel and iniquitous proceeding is so far from being peculiar to these times, or confined to the popish convicts, that in cases of treason it is used to this day; and an individual accused, or suspected of this crime, is in a great measure deprived of the protection of the law; and every consideration of justice, humanity, and the ordinary rules of legal prosecution, is suspended in his disfavour.

Grove and Pickering solemnly disavowed all that had been sworn against them; and Pickering, in particular, declared, with earnestness, that he had never shot off a pistol in his life: but neither asseverations, or testimonies, had any weight with men who had condemned, in their own opinion, the prisoners before they came to trial; and the protestations which these unhappy victims made of their innocence in the hour of suffering\*, had no effect on the spectators, it being universally received as an opinion, that the Jesuits al-

\* Ireland, as well as Coleman, had been not only promised a pardon, but a reward if he would make discoveries.

lowed of lies and mental reservation, for the promoting a good cause. Ann. 1678.

HILL, Green, and Berry, men of low stations, were now brought to trial for Godfrey's murder, and found as little disposition either in the court or the spectators, to attend to the evidence they brought to invalidate the oaths of the witnesses, and to some circumstances in their several depositions which were not altogether reconcileable. These men, both when they were brought up to receive sentence, and at the place of execution, persevered in asserting their innocence; and Berry in particular, who was a Protestant, as the cart was drawing away, lifted up his hands and said, "As I am innocent, the Lord receive my soul."

THE disagreement between the two Houses, on the impeachment of the earl of Danby, furnished the king with an excuse for a prorogation, which took place immediately after Dugdale had delivered in his information; his majesty signifying from the throne, that it was with great unwillingness he had been induced to take such a step; that the members of the two Houses were all witnesses that he had not been well used; that they should be acquainted with the particulars at a more convenient opportunity; that, in the mean while, he would immediately enter upon disbanding the army, and do what he could for the good of the kingdom and the safety of religion; that he would prosecute the discovery of the plot, and take all the care in his power to secure the Protestant religion.

Prorogation  
and dissolution  
of the  
Parliament.

THIS was a kind of warning to the Parliament, that his majesty did not intend to make use of their assistance in the  
extricating



Ann. 1678. extricating the public out of the difficulties and the dangers which it was supposed to labour under; accordingly the prorogation was soon followed with a dissolution \*. In the proclamation declaring his majesty's pleasure therein, the cause ascribed for the proceeding was, the many inconveniencies arising from the over-long continuance of one and the same Parliament: and the arguments made use of to reconcile the people to this measure of the crown were the same which had been frequently urged in vain by the patriots, and even punished, when enforced by the claim of a constitutional right.

THE manner in which this Parliament assisted the king,

\* Acts passed: An act for granting a supply to his majesty of six hundred and nineteen thousand three hundred and eighty eight pounds eleven shillings and nine pence, for disbanding the army, and other uses therein mentioned.

An act for granting an additional duty to his majesty upon wines for three years.

An act for burying in woollen.

An act for the further relief and discharge of poor distressed prisoners for debt.

An act for repealing certain words in a clause in a former act, intitled An act for enlarging and repairing of common highways.

An act for reviving a former act, entitled, An act for avoiding unnecessary suits and delays, and for continuance of one other act, entitled, An act for the better settling of intestate estates.

An act to enable creditors to recover their debts of the executors and administrators of executors.

An act for the admeasurement of keels and boats carrying coals.

An act for preservation of fishing in the river of Severn.

An act for the more effectual preserving the king's person and government, by disabling Papists from sitting in either House of Parliament.

and the pretences they gave him to break the solemn promises he had made at Breda, in the persecution of the Nonconformists, their unconstitutional compliances with the crown, to the weakening, if not the total subversion of the free principles of the constitution, have justly rendered them peculiarly obnoxious to the friends of civil and religious liberty; and as the fatal expedient of bribery was first practised on these patrons of the prerogative, it has secured to them the opprobrious distinction of the pensioned Parliament. "Our kings," says Algernon Sydney, "had not wherewithal to corrupt many till this last twenty years; and the treachery of a few was not enough to compass a law. It was also difficult, in a short time, so to reconcile various interests and passions, as to combine them together against the public: we are beholden to Hyde, Clifford, and Danby for all which has been done of that kind \*." They found a Parliament full of lewd young men, chosen by a furious set of people, in spite to the Puritans. Some were fond of their seats in Parliament, and delighted to domineer over their neighbours, by continuing in them; others preferred the cajoleries of the court, before the honour of performing their duty to their country; and others were glad of a temporary protection against their creditors: many knew not what they did when they annulled the triennial act, voted the militia to be in the king, gave him the excise, customs, and chimney money, made the act for corporations, by which the greater part of

\* That the earl of Clarendon did undertake to forward the king's measures, by intriguing with the members of Parliament, is partly acknowledged by himself, and avowed by Sheldon, bishop of London, who asserted, that it was a great loss to the church when the chancellor, piqued at his ill treatment at court, and the attention given to other undertakings, ceased to carry on his usual cabals with the individuals which composed the national assembly.

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Ann. 1678. the nation was brought under the power of the worst men in it, drunk or sober, passed the five mile act, and the act for uniformity in the church."

Character  
of Andrew  
Marvell.

ANDREW MARVELL, as renowned for candour and moderation, as for an unstained integrity, gives the same character of this Parliament as Algernon Sydney; and also a curious history of the manner in which the court played on their hopes, their fears, and their corrupt views of interest, in the exercise of the prerogative, of adjourning and proroguing, and the threats of a dissolution. It is however certain, that the intrigues of the earl of Clarendon, acting on the indiscreet zeal of ignorant men, produced the most obnoxious of all the proceedings of this Parliament; that the second Dutch war, and the intrigues of the king with the French, began to open their eyes; and it was this circumstance, which prompted Clifford to corrupt the leaders of the opposition. However, in all probability, from the smallness of the sum, which did not appear to exceed twelve thousand pounds a year, it only served to maintain the appearance of a court party, whilst the ill-advised conduct of government united together a strong party in opposition to the measures of the crown. The earl of Danby almost doubled the sum of corruption; but neglecting, as Burnet says, thro' jealousy, the leaders in the debates, he endeavoured to secure a majority by dealing out small sums to members of inferior characters, which occasioned an union of the men of abilities against him; and in consequence this pensioned Parliament, after having driven one of their paymasters out of court, impeached the other in the fullness of his power, had the honour to propose a test to purge their members on oath from all suspicion of corrupt interest, and to bring to perfection the Habeas Corpus

Corpus Act, which is perhaps the only remaining bulwark of Ann. 1678.  
English liberty.

According to the justice which the writer of this history has ever paid to the illustrious dead, it is proper to observe, that among the dubious characters which composed this Parliament, the conduct of one member was distinguished for a simplicity and an integrity of manners, an elevation of sentiment and a tried virtue, which would have done honour to the purest times in the most exalted societies.

ANDREW MARVELL represented the town of Kingston upon Hull twenty years successively in Parliament; and though a man of low fortune, and the last member who received the pay allowed by constituents for this public service, he, in opposition to private interest, invariably pursued what he regarded as the interest of his country, and the duties of his office.

The manner in which Marvell exerted his abilities, rendered him obnoxious to government, at the same time that the power and activity of his genius gave him a consequence which subjected him to trials, which have proved very fatal to the virtue of modern patriots; and among these the following is an instance, which contradicts that profligate modern maxim, "That every man has his price," and shews, that there is no age so abandoned, in which human nature is totally divested of those ornaments of the species, which justify the wisdom of God in the creation of man. The king having been one night agreeably entertained in Mr. Marvell's company, on the next day sent the lord treasurer



Jan. 1678. Danby to find out his lodgings. Mr. Marvell lodged up two pair of stairs, in a little court in the Strand; and when the lord treasurer abruptly opened his door, he told him, that he believed he had mistook his way. The treasurer replied, not now I have found Mr. Marvell, and proceeded to assure him, that he came with a message from the king, which was to know what his majesty could do to serve him. Mr. Marvell facetiously answered, that it was not in his majesty's power to serve him; and then in a more serious manner told the treasurer, that he knew the nature of courts well, and that whoever is distinguished by a prince's favour is always expected to vote in his interest. His majesty, replied the treasurer, has only a just sense of your merits, in regard to which alone he desires to know whether there is any place at court you can be pleased with. These tempting offers of the treasurer had no effect, though urged with earnestness, Marvell still insisting that he could not accept them with honour, for he must either be deemed ungrateful to the king in voting against him, or false to his country in giving into the measures of the court; therefore the only favour he begged of his majesty was, that he would esteem him as dutiful a subject as any he had, and more in his proper interest in refusing his offers than if he had embraced them. The lord Danby finding, that no arguments could prevail on Marvell to accept a place, told him, that the king had ordered him a thousand pounds, which he hoped he would accept, till he could think what further to ask of his majesty. This offer was rejected with the same steadfastness of mind as the first, though as soon as the treasurer was gone, Marvell's circumstances obliged him to send to a friend to borrow a guinea.

It is not for the reputation of those who were acquainted with this great man's virtues, that it should have been put to so severe a trial. However, agreeable to the common course of public gratitude, Mr. Marvell was distinguished by the favour of his country, at the time when he was no longer sensible of its effects, and the town of Kingston upon Hull erected a monument to his memory in the year 1688.

ANDREW MARVELL published various works, which were distinguished among the publications of the times, and do honour to his abilities. He wrote several severe satires, in verse, on the court and the times; and a vein of humour, peculiar to himself, characterises all his prose writings, among the most conspicuous of which are his Growth of Popery, and his History of the Long-parliament: but that which more particularly signalized him, because it was a complete triumph over a domineering faction, was a work entitled, The Rehearsal Transposed, written in answer to some virulent publications of the clergy against a comprehension of the Presbyterians.

In the last notice which was taken of the affairs of Ireland, we left the duke of Ormond victor over all the different interests and factions which existed in that unfortunate kingdom; but though a common interest had occasioned him to exert all his influence to mitigate the poverty and the distress which the English act against the importation of Irish cattle had occasioned, by the encouragement given to the Irish manufactory, in the procuring leave to pass an act, for the prohibiting Scotch linens and commodities, and by obtaining liberty for the Irish to trade to the American plantations, and even with foreign enemies; yet the injuries which a variety of individuals had sustained from the settlement of the kingdom;

Affairs of Ireland.



Ann. 1678.

could not fail of producing an enmity to the individual who sat at the helm of government.

It has been often observed, that there is nothing in the uncertain state of human affairs so very uncertain, as that greatness which owes its existence to the favour of a court. The duke of Buckingham, piqued with the refusal of a solicited favour, had, towards the latter end of the Dutch war, carried on with such success an opposition in Parliament, as to restrain, in some measure, the lavish grants of the Commons; and on this, and other provocations, was, on the information of Dr. John Heydon, a pretended astrologer, whom the duke had the weakness to employ, prosecuted in a manner as obliged him to abscond. The death of Heydon, but more particularly the humiliation of the court on the disgraces at Chatham, encouraged the duke to obey the dictates of a proclamation, and to surrender himself; and he shortly found means, through the bewitching charms which lively parts give to every character, and the influence of the lady Castlemain, not only to appease the king's resentment, but to ingratiate himself so far in his majesty's favour, as to become his chief director; and on the disgrace of the earl of Clarendon, his prime minister, in this capacity he had the honour to make an attempt, which, though it proved unsuccessful, might have prevented a great part of those evils to which the nation was afterwards subjected, viz. the union of the Protestant interest.

THE duke of Ormond, a man of honest principles, yet of very confined and illiberal sentiments, and in some respect of noxious opinions, had conceived such a dislike to the duke of Buckingham, on the favour he shewed the dissenters, as to thwart his preferment at court, though the duke had actually

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made a disposition of his large estate in favour of his niece, Ann. 1678. who had married the heir of the Ormond family. Such a conduct was not easily to be forgiven by a man who was deemed implacable in his resentments; and the duke of Buckingham commenced the sworn foe to the duke of Ormond, who had created a variety of other enemies, even in the English council, on account of his political principles, which were too purely monarchical to be consistent with the liberties of free subjects: among these was the lord Hollis and sir William Coventry, who frequently voted with the opposition, even when he enjoyed the office of secretary of state, and might, says Burnet, have been the chief minister, but he was too honest to engage in the designs of the court.

ALL those who were enemies to the earl of Clarendon, on the narrow and illiberal system of government he had pursued in regard to religious differences, were on the same reasons enemies to the duke of Ormond. Buckingham was encouraged on this circumstance to frame an impeachment against him, on the grounds of his having exercised an arbitrary power over the liberties of the people, in the causing, in 1664, all the arms of the English, except parliament-men and justices of the peace, to be seized; on his granting a commission to try the soldiers on martial law, who mutinied at Carrickfergus; and on his quartering of soldiers in Dublin, contrary to the Irish statute of the 18th of Henry the VIth: even the king wrote to encourage the earl of Orrery to help the duke to facts upon which he might ground the accusation; and on this nobleman's desiring leave to go to England, the duke of Ormond, who had received advice of the designs of his enemies, thought proper to leave

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Aug. 1678. the management of affairs in the hands of his son, the earl of Orrery, and repair to the court.

THE same rule of conduct which rendered the duke of Ormond formidable in the eyes of those who loved the liberties of their country, and hateful to those who smarted under the persecution of the church, exalted him in the opinion of the party who were distinguished for their arbitrary notions in church and state; and on his approach to London, he was met by a large body of gentry, entered the city in a kind of triumph, and was received by the king with a cold civility.

ON the earl of Orrery's arrival, a strict examination was made into the management of the Irish revenue; but it turned out so much to the credit of the lord-lieutenant, that this disappointment, and the dismissal of several petitions laid before the Commons, and the coldness with which they had received some angry motions made against him, deterred his enemies from proceeding in the way of impeachment, and determined them to pursue, by other methods, his discharge from the enviable office of chief governor of Ireland. The king was willing to save himself the shame of dismissing a man from his service whose chief fault, among a great number of his subjects, was his tenacious support of what is commonly called the interests of the crown; and who had risked so large a fortune in the service of his father and himself. Several attempts were made, in the way of advice, to persuade him to resign the lieutenancy; but the duke, who was strongly infected with the love of office, and who had an interest in keeping his power till payment was procured of a large

a large sum which had been given him out of the forfeited lands, as a recompence for his losses, turned a deaf ear to the arguments of those counsellors, and to another scheme which was proposed, for his retaining the name and appointments of lieutenant, and the government to be carried on by lords justices. The obstinacy of the duke of Ormond did not prevail over the influence of his enemies; he was, towards the latter end of the year 1669, removed by the king's command from his post in Ireland; and the lord Robarts, who was in the interest of the duke of Buckingham, appointed to the office of lieutenant.

The duke of Ormond, whose insinuating manners and judicious policy, yet more than his principles, rendered him a dangerous delegate to a designing sovereign, had, during the peaceable enjoyment of his office, not only conciliated the affections of the people to his person, but to a species of power which, under the violent administration of Lauderdale, was regarded with terror by the Scots; the people of Ireland were, consequently, disgusted at his removal; and the lord Robarts, a man of plain and blunt manners, had the mortification to find that a strict adherence to law, and the reinstating the inhabitants in those privileges of which they had been deprived by their former governors, and particularly that of not quartering soldiers in the city of Dublin, nor suffering any money to be levied from the inhabitants, in lieu of their lodgings, was so far from meeting with the countenance and the gratitude it deserved, that a motion made by several of the inhabitants to return thanks to the lieutenant, was suppressed by the lord mayor and common council. The lord mayor and sheriffs absolutely refused to



Aug. 1678. lay down any rules for the quartering soldiers, unless the lieutenant would give such warrants as the duke of Ormond and the earl of Ossory had formerly done, treated the lord Roberts with a contemptuous neglect, and accompanied the compliment of the freedom of the city to the earl of Ossory, with a high eulogium on the conduct of the duke of Ormond, who had the satisfaction of being also complimented by the university of Oxford with the office of chancellor, in the room of the earl of Clarendon.

THE enemies of the duke of Ormond took care that his mortifications from a court which he idolized, should be at least in equal proportion to the testimonies of favour he received from a party, of which he was, after the disgrace of the earl of Clarendon, esteemed the head. Contrary to the usual custom, he was left out of the committee for Irish affairs; Blood was rewarded with a pension for the attempt to assassinate him; and though he was permitted to enjoy the office of steward of the household, yet the white staff rendered the neglect with which he was treated, only more conspicuous: the king, in the whole course of his constant attendance, never spoke to him; Blood hunted him as his shadow, from room to room; and the duke supported this awkward situation with a persevering humility, which, even in these days where the high spirits of the people are much subdued by an enervating system of dissipation, appears very unnatural to an English character.

THE mortifications and the opposition which the lord Roberts had to combat in his government, were more than sufficient to disgust a man of a less capricious temper: he resigned

resigned his office in disgust, retired to his seat in Cornwall, Ann. 1678. and left the post vacant, for the promotion of the earl of Berkeley, who was also of the duke of Buckingham's faction, and very high in his confidence.

By the advice and through the influence of the duke of Ormonde, federal of the nobility, gentry, and clergy, of the Roman catholic communion in Ireland, had signed a remonstrance which disavowed the supremacy of the Pope in all temporal matters: this was opposed with great violence, and a high spirit of persecution, by a much larger body of these recusants. The Pope exerted his authority by depriving the contrary party of ecclesiastical preferment, and the matter was carried so far as even to the denouncing excommunication on the offenders, who were on the point of starving in the same society to whose government they had avowed submission. Peter Talbot, a Jesuit, who is supposed to have converted king Charles to the Romish faith, during his abode at Cologne, and who had been lately created titular archbishop of Dublin, and one Burgat, archbishop of Cashel, were the chief promoters of this persecution; and Peter Talbot pretended that he was appointed by the king to oversee all the clergy of Ireland. It is this circumstance, and the personal favour in which Talbot and his brother, who had a high employment in the army, were in with the king, his mistress, and some of the English ministry, which prevented the lieutenant from exerting his authority to the protection of the remonstrants, and though on the several pleas of the two parties before the English council, the earl of Berkeley had orders to prosecute the anti-remonstrants,



Ann. 1678. and to put a stop to the prosecution of the loyal clergy; yet these commands were received as only a necessary appearance, or were counteracted by private instructions, for the lieutenant still refused to interpose his authority. The remonstrants were suffered to be crushed by the power and the violence of their adversaries: Peter Talbot and his colleagues, were allowed to go on in the exercise of a foreign jurisdiction: the king's power was exerted in opposition to his authority, and this indulgence was followed with orders for their admission to inhabit and trade in corporations.

THESE extraordinary favours filled the party with hopes that their interest was sufficiently powerful to set aside the Act of Settlement: Colonel Talbot was appointed their agent; a petition was presented to the English council, praying relief for those who had been dispossessed of their property by that act; and though the duke of Ormond, on a just sense of the distractions which any new disposition of the lands in Ireland would create, opposed it with great earnestness in the council. Commissioners were appointed for a review of the settlement, and were carrying on their enquiries to the great terror of all the Irish Protestant interest, when the English House of Commons put a stop to their proceedings by an address on March 26, 1673, in which they petitioned his majesty, that for establishing and quieting the possessions of his subjects in Ireland, he would be pleased to maintain the acts of settlement and explanation, and to recall his commission of enquiry into Irish affairs; and that Colonel Talbot, who had notoriously assumed to himself the title of agent-general of the Roman catholics in Ireland, might be immediately dismissed from all command, either civil or military, and forbid the court,

THE king had not only granted indulgence to the Irish Ann. 1672.  
Papists to live in corporations, and suspended the rules and  
directions made for regulating them, but had approved of the  
election of nine or ten Papists, by the mayor of Dublin, into the  
common council of that city, and this by the sole nomination  
of that magistrate. Peter Talbot had called in the assistance  
of the civil power to supply the defects of his ecclesiastical autho-  
rity, and the remonstrants were absolutely imprisoned, and  
otherways prosecuted, by lord Dungan, and other popish lay-  
men, who were in the commission of the peace. The Commons  
of England, alarmed at these proceedings, moved his majesty  
to give orders, that no Papist be either continued, or hereafter  
admitted, to be judges, justices of the peace, sheriffs, coroners,  
mayors, sovereigns, or port reeves, in that kingdom: that the  
titular popish archbishops, bishops, vicars-general, abbots,  
and all others exercising jurisdiction by the pope's authority,  
and in particular Peter Talbot, pretended archbishop of Dub-  
lin, for his notorious disloyalty, disobedience, and contempt of  
law, be commanded by proclamation, to depart forthwith out  
of Ireland, and all his majesty's dominions, or otherwise to be  
prosecuted according to law: that all convents, seminaries, and  
public schools, be dissolved and suppressed, and the regular  
priests be commanded to depart under the like penalty: that  
no Irish priest be admitted to inhabit in any corporation of that  
kingdom, unless duly licensed according to the Acts of Settle-  
ment; and that his majesty's letters and proclamation, giving  
them a general license for that purpose, should be recalled: that  
all the Irish priests should be disarmed, and no Papist be either  
continued, or admitted to be a commander, or soldier in that  
kingdom: and that his majesty would give such farther direc-  
tions, as might conduce to the encouragement of the English  
planters, and Protestant interest there, and the suppression of  
: and duq



Ann. 1678. the insolences and disorders of the Irish Papists, by whose practices, and particularly of the said Richard and Peter Talbot, the peace and safety of that kingdom had been endangered.

The disgrace which the king had incurred by his treaty with France, and the injustice and ill success of the second Dutch war, obliged him to comply, in some respects, with the prayers of his Parliament. The commission of review was superseded, the letters and proclamations, authorising the Papists to live in corporations, were revoked; and the nomination of the nine or ten Papists, to be of the common council, was set aside.

The earl of Essex had been appointed lord-lieutenant of Ireland in August 1672, and having acted in the character of ambassador at Denmark at the time when the revolution in favour of despotic government took place, and all the orders of the state were subjected to the will of the sovereign, the circumstance made a strong and lasting impression on his mind, and especially as it was brought about on a sudden, and with little difficulty. Whilst the power of the strong impression which the earl had received was in its full vigour, he was created lord-lieutenant of Ireland; and, according to Burnet, in his government of that country he exceeded all who had gone before him, in the vigilance, justice, and integrity of his conduct: he studied to understand, with exactness, the constitution and interest of the nation: he read over all their council-books, and made large extracts out of them, to guide him in the advancement of every scheme which had been, at any time, set on foot for the good of the kingdom: he made several volumes of the tables of the state, and got true characters of all the men who were capable to serve the public:

public: he preferred them on account of their merit, without any application from themselves; and he watched over all about him, that there might be no bribes taken by his servants. This exalted description of lord Essex's conduct, which comes from the pen of a warm friend, is not contradicted by Mr. Carte; who, after having freely censured lord Roberts, and given many anecdotes of the defective administration of the lord Berkeley, is totally silent on the government of Essex: perhaps from the consciousness that it might, in some measure, obscure the lustre of his hero, the duke of Ormond, whose conduct he represents as a perfect rule for the loyalty of subjects, and his administration as a perfect pattern for all men, who are trusted by their sovereigns with the high and important office of government.

The man who can bear the personal insults of his sovereign with a submissive constancy, equal to what we have seen in the duke of Ormond, will scarcely feel for his fellow-citizens what he cannot feel for himself. Charles was sensible of this truth: and notwithstanding his contemptuous neglect of the duke, was so thoroughly persuaded of his attachment to the prerogative, and the personal interest of the sovereign, that if Colbert, the French minister, would have consented, it was proposed to have let him into the secret of the French treaty; and the king declared to this minister, that he believed the duke of Ormond would use his power and influence over the forces in Ireland to his advantage, though he should expose the intentions of the treaty, by avowing his conversion to the Romish faith.

Dalrymple's  
Appendix.

On these weighty considerations, the king, in the year 1677, when he resumed the project of subduing the refractory spirit



Ann. 1678. of the Parliament, and governing by military force, displaced the patriotic earl of Essex, who, according to Leland, the Irish historian, had not satisfied either the king or his brother, by an integrity more rigid than their own, by objecting to exceptionable and clandestine measures, however authorized, and by refusing obedience to the royal orders when not exactly conformable to law.

ON the dismissal of the earl of Essex, the king, by the particular recommendation of the duke of York, put the important office of the lieutenancy of Ireland again into the hands of the duke of Ormond; a measure which astonished all those who were not in the secrets of the court, and was little expected by the duke, who, after a constant series of neglect for the space of eight years, was agreeably surprised with a message from the king to the following purport, "That his majesty would come and sup with him." A magnificent entertainment was prepared, and the evening spent with all that good fellowship, or rather debauchery, which distinguished the times. In the midst of the feast, the duke was informed that his majesty designed to take him again into his service; and the next day, when he saw him at a distance, coming to pay his usual duty, he said to those about him, "Yonder comes Ormond, I have done all I can to disoblige that man, and to make him as discontented as others, but he will not be out of humour with me; he will be loyal in spite of my teeth; I must even take him in again, and he is the fittest person to govern Ireland."

CHAP. III.

*Duke of York leaves the kingdom.—The King makes a public declaration of the duke of Monmouth's illegitimacy.—New parliament.—New council.—Bill of exclusion.—Habeas Corpus Act.—Parliament prorogued.—Acts passed.—Treaty with France.—Animosity of parties.—Affairs of Scotland.—Archbishop of St. Andrews murdered.—Rising of the Scotch covenanters.—Battle of Bothwell bridge.—Decision in favour of Lauderdale's administration.—Prosecution of the Papists.—Acquittal of Sir George Wakeman.—Dissolution of the parliament.—State of parties.—King falls sick at Windsor.—Duke of York sent for.—Duke of York returns and goes to Scotland.—Meal-tub plot.—Earl of Essex resigns his employment.—Popular members leave the council.*

**A**S the whole nation were too much inflamed with resentment at the conduct of the court, to afford any prospect of the return of members less favourable to the cause of liberty than those which composed the last parliament, it was, in all probability, intended on the dissolution of that assembly, either to govern without parliaments, or to awe these subordinate estates into a perfect submission to the king's measures, through the terror of a military force. The duke of York proposed to Barillon that the army should be kept on foot, notwithstanding the resolutions of Parliament to dissolve it; and that to facilitate this end, the union between Lewis and his brother should be renewed: Charles also made an overture of a re-union in terms very mean and submissive,

Ann. 1679.

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Ann. 1679. five; assured the ambassador that he should have an extreme joy to owe his safety and preservation entirely to the king of France; and that he would not refuse any conditions his Most Christian Majesty should impose.

THE caution of Lewis was again propitious to the liberties of England: Barillon insisted on the disbanding the army, as a necessary preliminary to the obtaining any supplies from France; and Charles, who could neither support or disband his troops, without the assistance of France, or his people, was reduced to the necessity of summoning a new Parliament.

It was at this period that the court first interested itself in a very high, a very dangerous, and a very unconstitutional degree, in the choice of the national representatives; but all its efforts were fruitless: the members returned were chiefly of the country interest, and it was found necessary to make some condescensions towards gratifying and appeasing the people before the meeting of this formidable assembly. Two express motions had been made in the last Parliament by the lord Russell, against the duke of York; the one was for an address to his majesty, that his royal highness might be removed from his presence and councils; and the other, that the opinion which the Papists have of the duke's being for them, and of their religion, was the cause of the plot. The duke, alarmed at his unpopularity, and apprehensive of the consequences, had taken occasion to declare, in the House of Lords, that since he had found distaste taken by some particular persons, at his appearance in the committee for foreign affairs, and at his meeting among the lords

lords of the admiralty, he would, for their satisfaction, Ann. 1679.  
 hereafter forbear. The duke's speech was accompanied with  
 a declaration from the king, circulated by the earl of Danby,  
 viz. that his majesty was willing that something should be  
 enacted to lessen the power of a popish successor, but that  
 he would never suffer his brother to be taken away from him,  
 or the right line of succession to be interrupted. This offer  
 of the king, which did not come up to the expecta-  
 tions of the House, was rejected; and the earl of Danby,  
 who yet more than his highness had reason to fear the re-  
 sentment of an enraged Parliament, persuaded the king to  
 oblige his brother not only to quit the court but the king-  
 dom.

THE king acceded to Danby's advice; but previous to  
 the taking so harsh a measure, he sent the archbishop of  
 Canterbury and the bishop of Winchester, to urge his bro-  
 ther to conform to the church of England. The duke of  
 York, whose zeal for religion had prompted him, whilst a  
 youth and an exile, to insist that the duke of Gloucester  
 should be taken from his mother's arms, to prevent her from  
 corrupting his religious principles, and whose attachment  
 to the Romish faith was yet stronger, because he imagined it  
 to be the result of his reason, saw at once the ill conse-  
 quences which must attend the conference, and believed it  
 to proceed from the influence of an enemy to render him  
 more odious in the eyes of the people. He told these spi-  
 ritual fathers that he took in good part what they had said  
 to him, and was persuaded of their honest intentions, tho'  
 he could not doubt but there was much malignity in those  
 who had obliged them to hold such discourse with him, and



Ann. 1679. that it was a snare laid to engage him to enter into a conference, which could be of no use; that he did not pretend to be wise enough to dispute with persons of profound capacity, but he had, however, taken all possible precautions in his change; that he had deferred it many years, and had consulted the most able Protestant bishops and doctors; that at present his conscience was at ease, and he believed himself to be in the right road; that he had no doubts in which he wished to be cleared, and had no intention to enter into a dispute, but would willingly hear them if they had any thing to say. On this inflexibility in the duke, Charles privately directed lady Powis to intreat him, in the name of her husband, and the other four popish lords, to leave the kingdom; but this request being refused, the king had recourse to his authority, and sent his brother an order to depart.

Duke of  
York leaves  
the kingdom.

It is to be observed, that the duke had made himself very obnoxious on account of his religion, yet nothing criminal was laid to his charge; but whatever inclination he might have to stand on his innocence, and however obvious it was that the measure tended to intimidate his friends, and discourage his enemies, he was too much in the power of his brother to refuse obedience to his commands: however, before he complied, he required an order, signed by the king, lest the absenting himself should be interpreted a proof of fear or guilt. The regret of leaving the kingdom at a time so critical and alarming, of deserting his friends and encouraging those who had already taken measures for his exclusion from the right of succession, were not the only mortifications at this time sustained by the duke of York: he was denied the privilege of a father, to take along with him the princess Anne, his daughter,

daughter, whom he tenderly loved; and in the hour of parting, it was observed by the byestanders, that no sympathizing tear fell from the king, whilst the duke's eyes were bathed in a torrent of that briny fluid.

Ann. 1679.

The king, for very substantial reasons, had over-ruled the desire which the duke had shewn to retire to France, and before his departure had given him the satisfaction to make a public declaration of the illegitimacy of the duke of Monmouth, his natural son, by Lucy Walters. This young nobleman possessed all those specious qualifications, and external endowments, which engage the affections of the populace; he had a graceful and a beautiful person; he was of a distinguished valour, had an affable address, and a generosity even to profusion; the king favoured him above all his numerous children; and from motives of policy, that he might have an opportunity to sift the designs of party, to distract their councils, and multiply the objects of their attention, he sometimes appeared to flatter him in these ambitious views which in the end proved fatal to his life. He had used the influence of royalty to marry him to one of the greatest heiresses in Scotland, of the house of Buccleugh: he made him captain of his guard, master of the horse, and, on the disgrace of the duke of Buckingham, the duke of Monmouth succeeded to all his employments: he commanded the forces which were sent into Flanders to the assistance of the confederates; and in the year 1674, at a time when it was apprehended the discontents of the nation might break forth into violence, he was entrusted with the command of lord general of the army, though the office, because deemed too

Dalrymple's Appendix.

King makes a public declaration of the duke of Monmouth's illegitimacy.

great



Ann. 1679. great for a subject, had been abolished on the death of the duke of Albemarle.

As the duke of Monmouth's capacity was not of the exalted kind, his ambition, in all probability, had never been dangerous to himself, or others, had it not been from the selfishness, or imprudent affection of his tutor, one Rofs, a Scotchman, who inflamed the youthful mind of his pupil with the prospect of a crown, by persuading him that the king had been married to his mother. Rofs having thus practised on the easy mind of Monmouth, advised Couzens, bishop of Durham, to write a certificate of the marriage, and to deposit it in a strong box in his house, on the plea that all arts were justifiable to exclude a Papist from the throne. Couzens immediately communicated to the king the advice which Rofs had given; and as the king did not either reprimand Monmouth, or take any method to chastize Rofs, the latter, after the death of Couzens, circulated a report that Couzens had left a certificate of the marriage behind him; and the former gave directions, that in the form of the commission for appointing him lord general, he should be called the king's son; and that the usual addition to this appellation of the word natural, should be omitted. The duke of York, who had vehemently opposed the preferment on the being informed of this innovation, sent orders to the officer who was to draw the commission, to do it in the usual form; and as these orders were punctually obeyed, Vernon, secretary to Monmouth, on the delivery of the commission by his master's directions, erased the word natural. The avowal of this high pretension was a kind of public declaration that the duke was a competitor for the crown: however, the king, when

when appealed to, gave it against his son; and on the Ann. 1679. complaints of the duke of York, he cut, with a pair of scissors, the commission through the middle, and desired another might be brought him.

Though the king had given this satisfaction to his brother, he still continued to load his son with favours. The dutches of Portsmouth and the earl of Danby also, lent him their support, in order to counter-balance the interest of the duke of York; the popular earl of Shaftesbury, likewise, countenanced his pretensions, and directed his councils; the story of the contract was industriously spread abroad, and greedily received by the multitude, who in the mild, humane, and condescending temper of Monmouth, beheld in prospect the fruits of a popular government, whilst the duke of York's bigotry to the popish faith was regarded with a fear and terror, which renewed in the minds of the people all the horrors of queen Mary's reign.

THAT animosity which had taken place between the duke of York and his nephew, was greatly augmented by a suspicion which the duke had expressed that Monmouth was son to Robert Sidney, the most beautiful man of the age, who had been used to boast of favours from Monmouth's mother; and Monmouth in return went out of the House of Lords during the debate for excluding Papists, in which his uncle was excepted but by two voices. He afterwards openly declared for the exclusion; his partizans asserted his legitimacy; and it was to cut them off from the expectations they had formed of a concurrence from the king, that the duke of York required of his brother to remove all those prejudices which



Ann. 1679. the report of the contract might have occasioned, by the making a declaration in full council of Monmouth's illegitimacy, and the denying all promise of marriage with his mother.

New Parliament.

THE king, on the opening the Parliament, assured the two Houses, that he met them with an earnest desire to unite the minds of all his subjects to himself, and to one another; that he resolved it should be their faults if the success was not suitable to his desires; proceeded to relate the zeal he had shewn in the prosecution of the plot, his readiness to disband as much of the army as his money would allow him to do, and his having commanded the absence of his brother; a step, he said, he had taken to discern whether the Protestant religion and the peace of the kingdom were as truly intended by others as they were aimed at by himself; for if they were, the Parliament would employ their time upon the great concerns of the nation, and not be drawn to promote private animosities, under public pretences. His majesty, after engaging not to give over his endeavours to find out the bottom of the plot and the murder, declared his readiness to join in the making such further laws as might be necessary for the securing the kingdom against Popery, and desired the assistance of the Parliament in the necessary supplies, to disband the army, for the paying of the fleet, to make up the deficiencies in the poll bill, and to discharge the anticipations on the revenue. With these demands the king signified a hope that he should, in time, be gratified with an increase of the revenue; though, he said, by reason of the great supplies which were necessary at this time, he would be contented for the present to struggle with his difficulties, expecting only to have the additional duties upon the excise prolonged to him, and the loss made up which he sustained by

by the prohibition of French wines and brandy: he next Ann. 1679. proceeded to recommend a further establishment for the navy, and concluded with signifying that it was his earnest desire, that this should be a healing Parliament; with declaring that he would, with his life, defend both the Protestant religion and the laws; and that he did expect that the Parliament would defend him from the calumny, as well as danger, of those worst of men, who endeavoured to render him and his government odious to his people.

THE lord chancellor Finch began his speech with a kind of apology for his majesty's dissolving the last dutiful Parliament; intimated, that he would, for the future, frequently shift the representative part of the legislature, that he might have a right and true understanding of the desires of his people, and be rightly understood by them; set forth the necessity of an union from the great and surprizing dangers at home, and the formidable appearance of danger from abroad; adopted the plot in its full extent, enlarged on the horrid practices of the Papists, charged them with the attempt to set up the dominion and the supremacy of the Pope, in the three kingdoms; made a merit of the diligence which had been used in the making farther discoveries of the execution of some, and the severities exercised on the whole party; and asserted, that so universal was the despair into which the Papists were now reduced, that they had no other hopes left but that the Parliament might chance to over-do their own business, and by being too far transported with the fears of Popery, neglect the opportunity they now had of making sober and lasting provisions against it. The chancellor proceeded to give a panegyrical comment on the several points and articles of the king's speech, and endeavoured



Ann. 1679. voured to persuade the commons that his majesty's parting with such a brother and such a friend, shewed that he had now no favourite but his people.

AFTER the recommending the welfare of the church to the care of the House, and the enacting a law for the further regulation of the press, the chancellor again descanted on the dangers which might come from abroad through the general peace of Europe, which left great fleets and armies unemployed, and ready for all occasions, and gave the Commons to understand, that it was in their power to prevent all mischief from the nation, by removing the present wants of the crown; that they had now an opportunity of doing great things for the king and kingdom; that it was not in the power of a Parliament to recover a lost moment, or to restore themselves again to the same circumstances and the same condition which they once had the power to have improved; that would they secure religion at home and strengthen it abroad, by uniting the interests of all the Protestants in Europe, this was the time; that would they let the Christian world see the king in a condition able to protect those who should adhere to him, this was the time; would they extinguish all fears and jealousies, would they lay aside all private animosities, and give them up to the quiet and repose of the public, this was the time; would they lay the foundation of a lasting peace, and secure the church and state against all the machinations of her enemies, this was the time. The result of your councils, concluded the chancellor, seem to be decisive of the fate of these kingdoms for many ages, and are likely to determine us either to happiness or misery, for a long duration.

The first step which the Commons took convinced the court, that it was no easy matter to talk them into a confidence either with the king, or his ministers. Mr. Seymour, though it had been proved in the last Parliament, that he enjoyed a pension from the crown of fifteen hundred a year, during the time that he had acted in the capacity of speaker of that assembly, though he had even earned the wages of iniquity by invading the privileges of the Commons, yet on the merit of having quarrelled with the earl of Danby, he was, by colonel Birch, one of the popular leaders, recommended to the Lower House, as a fit man to serve again in the office of speaker, was unanimously approved of, and placed in the chair.

The same reason which preferred Mr. Seymour in the eyes of the Commons, operated in a different manner with the court; the king, through the influence of the lord Danby, rejected Seymour, when presented for his approbation, and ordered the Commons to proceed to a new choice. This proceeding, and the nomination of Sir Thomas Meers, by Sir John Ernle, who pleaded the king's orders, threw the Commons into a great heat; Sacheverel, Williams, Clarges, Garroway, Lee, Birch, and Powle, all leading members, expatiated largely on the subject, and pointed very severe reflections on the treasury, whom they alone accused of having persuaded his majesty to this unpopular step. The House, in an address set forth, that it was the undoubted right of the Commons to have the free election of one of their members to be their speaker, and when the king desired them to go back, and do as he had directed them, they sent up another address to the same purport, the king replied sharply, that he would.



Ann. 1679. would send them an answer the next day, but instead of keeping his word, he prorogued the Parliament for a few days; and, in the interval, means were found to accommodate the matter; both Seymour and Meers were set aside, and when serjeant Gregory was presented, his majesty ratified the choice without farther hesitation.

THE chancellor, when he rejected Mr. Seymour, pleaded, that if his majesty should always accept a person pitched on by the House of Commons, then it would be no favour to be chosen a speaker, and, therefore, his majesty being the best judge of persons and things, thought fit to except against Mr. Seymour, as being fitly qualified for other services and employments. There are many reasons of expediency to urge for the Commons having the privilege of nominating and rejecting their own servant; but if the king's claim had been founded on the most specious principles of utility, it was undoubtedly a very improper time to dispute any questionable point of prerogative; and the heat which prevailed in the debates of the Commons through this whole session, in all probability, were, in a great measure, increased by their having begun business under the sense of an injury.

To shew their approbation of the conduct of their predecessors, the Commons appointed one committee to draw up a state of the matters which they left depending, and another of secrecy, to take informations, prepare evidences, and draw up articles against the popish lords under impeachment in the Tower; also to take such farther informations as should arise as to the plot, and Godfrey's murder. They revived, by a message to the lords, the impeachment of Danby, de-

IV. fired

fired he might be sequestered from Parliament, and committed to safe custody; and they empowered their committee of secrecy to draw up other articles against him.

BESIDES being otherwise obnoxious, the earl of Danby, by engrossing the king's confidence, and the management of affairs to himself, had yet more inveterate enemies in the cabinet than among the people; and it is to this circumstance alone, that we can account for the alteration which took place in the conduct of the Lords, who, on the opening the sessions, determined by vote, that the dissolution of the last Parliament did not alter the state of the impeachments brought up by the Commons: and when a message for the commitment was carried up, it was, with great difficulty, that his friends could postpone the issue of the debate till the next day, when the king came to the House, and declared, "That it was by his particular order the lord-treasurer had written the two letters produced by Mr. Montague: that it was not the lord-treasurer who had concealed the plot, but that it was himself, who directed his lordship, from time to time, as he thought fit: that he had granted the said nobleman a full pardon; and that if it should be found in any wise defective in form, he would renew it again and again till it should be rendered entirely complete: but that he was resolved to deprive him of all employments, and forbid him the court."

IT is intimated by Burnet, that a compromise of this kind had, in some measure, been agreed to by several of the popular members, and particularly by the lord Hollis, to whom the earl of Danby had applied, on the terms that the last Parliament should be dissolved: the Lords therefore gave into the expedient insinuated by the king, appointed a committee to



Ann. 1579. prepare a bill, that the earl might be made for ever incapable of coming into his majesty's presence, and of all offices and employments, of receiving any grants or gifts from the crown, and of sitting in the House of Peers.

THE Commons considering the matter in a more extensive light, saw, that such a precedent, founded on the king's pardon, would be an unformountable bar to that authority, which the constitution places in the hands of Parliament for such abuses of power as may be committed by ministers, by the order of the sovereign. Their committee had traced the pardon mentioned by the king through the several offices, and finding no entry made in any of them, had recourse to the lord-chancellor, who acknowledged, That, by the king's command, he had carried the seal to Whitehall, taken it out of the bag, and laid it upon the table: that after the king had written his name on the top of the parchment, the person who usually carried the purse, by the king's direction, affixed the seal to it: therefore, added this great law officer, at the very time of affixing the seal to the parchment, I did not look upon myself to have the custody of it: this is a stamped pardon by creation.

An evasion, so little suitable to the character of a lord high chancellor, was not calculated to soften the indignation of the Commons; it was resolved, *nemine contradicente*, that a message should be sent to the Lords, to demand justice against the earl, in the name of the Commons of England; and that, agreeable to their former message, he might be immediately sequestered. At the same time an address was sent up to the king, representing the irregularity and illegality of the pardon, and its dangerous consequences.

The Lords, on being informed of what had passed in the Ann. 1679. Lower-house, had the complaisance to order the treasurer into custody before the message from the Commons was brought up. On the report that the treasurer was not to be found, the Commons passed a bill, appointing him to surrender himself before a certain day, or, in default of it, attainting him: and though the Lords had, by another bill, mitigated the punishment to banishment, yet, after some conferences, they yielded to the Commons. The bill of attainder was carried, and the earl of Danby thought proper to surrender himself to the Usher of the black rod, was brought on his knees at the bar of the Upper-house; reprov'd for his absconding, instead of putting in his answer to the Commons impeachment, and then committed to the Tower.

Oates and Bedloe, who had given in some articles of complaint against the treasurer of ill usage, and an attempt to bribe them into a desisting from giving evidence against the queen, and the popish lords in the Tower, maintained an equal favour with this Parliament as the last. The Commons applied, by address, to the king, that Bedloe might have the reward of five hundred pounds promised by proclamation to the discoverer of Godfrey's murder: on Oates's evidence they expelled colonel Edward Sackville the House, for having spoken opprobriously of those who affirmed there was a plot; and prepared an address to the king, that he might be made incapable of bearing office: whilst the Peers, even exceeding them in these severities, gave power to their committees to find out, and examine such, as should maintain the innocence of those who had been condemned for the plot; demanded an account of the justices and constables, why the proclamations for banishing the Papists from London had



Ann. 1679. not been effectually prosecuted; called upon the popish lords in the Tower to expose their advocate to a prosecution, by discovering the author of a pamphlet, which had been written in their favour; and concurred with the Lower-house in renewing the former vote, that the Papists had undoubtedly entered into a horrid conspiracy against the king, the state, and the Protestant religion; and also in an address for the appointing a solemn day of fasting and humiliation.

On the business of supplies, so strongly recommended by the king and the chancellor, the Parliament had only taken into consideration an aid sufficient for the disbanding the army; they prepared a bill to such a purport, with strict appropriating clauses. And whilst this matter was before the House, the Commons passed a vote, that all the forces then on foot, except the train-bands, were kept up contrary to law: and when it was objected that the king's guards, and the garrisons of Portsmouth, and other places, would be included, it was answered, "That kings governing according to law had no need of *custodia corporis*, and that it was better to have no garrisons at all, than such as were commanded by Leg, Holmes, and their Peers."

Temple's  
Memoirs.

New coun-  
cil.

SIR. William Temple, who had too much honour to engage in the corruptions of government, and too little vigour of principle to enter into any scheme or plan for reformation, was, on the removal of the earl of Danby, complimented with the king's confidence; and after representing strongly to his majesty, the necessity of restoring, by some new remedy, that mutual confidence so necessary to the safety both of king and people, proposed the plan of a new privy council, which was to consist of thirty persons: fifteen of the chief officers of the

the crown were to be continued, and the other fifteen were to be men of character and fortune, detached from the court, or of those who possessed chief credit in both Houses. The king assented to Sir William Temple's reasons, and adopted his plan, which was intended to gratify the heads of the popular party; at the same time that they were to be so equally balanced by persons devoted to the prerogative, that the king's weight on either side should turn the scale, as he pleased; and that in case the national assembly should continue its animosity, the privy-council, by the credit, interest, and property of its members, might form a sort of counterpoise to the Parliament, and not only advise, but aid his majesty, in case his necessities could be no otherways removed.

Previous to the nominating this new council, the earl of Essex, by the recommendation of the duke of Monmouth, was put at the head of the treasury; the earl of Sunderland, a man of capacity and intrigue, was made secretary of state; the lord viscount Halifax, whose fortune, genius, learning, eloquence, and industry, rendered formidable, though he had highly offended the king, by a severe sarcasm on the corruption of the earl of Danby, made at the council board, and the duke of York, in a speech for the test act, in which he intimated that such cautions would be necessary, if that prince should mount the throne, was, at the instances of Sir William Temple, the lord chancellor, the earl of Essex, and the lord Sunderland, admitted of the council; and the earl of Shaftesbury was made president, though Sir William Temple objected strongly to the nomination, and prophesied that it would ruin all the good effects intended by the new constitution, which, according to what we are told by the inventor,



Aug. 1678. ventor, was received with general applause in the country, with bonfires in the city: in Ireland and in Holland, where the actions of the East India company rose considerably and immediately, and the States designed one of their most distinguished men to come over minister into England on the occasion.

THE satisfaction which the king and his new confident received from these circumstances, was much damped by the coldness with which the measure of this new constitution was received by the House of Commons, on whom it was principally intended to operate, but who considered it as a new court juggle; and when the king communicated it to the Peers, neither House acknowledged the compliment by any address: it was said, that no good could be expected from a council who had such men as the duke of Lauderdale and the earl of Arlington, a Papist, in it; the several pleas of the five popish lords who had been impeached early in the sessions, were voted evasive and insufficient; and on the evidence given in, that a house in the city had been set on fire by one Stubbs, a Papist; and that the lord Cottington, who, dying in Spain, had appointed his body to be carried into England, when England should be restored to the church of Rome, had been brought over last year, by a warrant produced from the earl of Danby; a motion was made and agreed to, that the next day, being Sunday, should be set apart to consider of the means for the preservation of his majesty's person, as also of the succession of the crown in relation to Popery.

It was now that the storm which had been so long threatening, and which the court had taken so many precautions to dispel, began to gather in the blackest clouds over the exiled duke.

duke. In the grand debate on the subject proposed, in the Ann. 1678. motion it was resolved, *nemine contradicente*, that the duke of York's being a Papist, and the hopes of his coming such to the crown, had given countenance to the conspiracies and designs of the Papists against the king and the Protestant religion: and the king having appointed some pieces of ordnance to be sent to Portsmouth, and a report being spread that the duke of York was returned into England, to hinder the disbanding the army, an address was also voted, that all the sea-ports and places of strength, and command of ships, might be put into trusty hands: it was concluded that the farther consideration of the subject of the debate should be referred 'till Wednesday: the secret committee were ordered to bring into the House such letters and papers as they had in their custody relating to the duke of York, and the important cause of patriotism and religion were, in a great measure, disgraced by an address to the king, for the execution of several condemned priests, who had been guilty of no other crime than the simple exercise of their priesthood.

It was now publicly known, that the intention of the leading members were to bring in a bill to exclude the duke of York from his right of succession; a measure which had been recommended in print, even before the discovery of the popish plot; and the king, either to divert the Commons from their purpose, or, with more probability, to divide the united opinions of the public, concerted a plan of limiting the power of the successor, and proposed it to the Parliament on the very day the Commons were to resume the farther consideration of the dangers apprehended from the duke's pretensions.



Aug. 1679. These limitations, by which the nation on every new reign was to be insured of having a Parliament which the king should not, for a certain time, have it in his power to dissolve; by which, in case of a popish successor, the prince was to forfeit the right of conferring any ecclesiastical preferment; by which no member of the privy-council, no judge of the common law, no lord lieutenant, or deputy lieutenant, no officer of the navy, was to be put out or displaced, but by consent of Parliament, were of sufficient importance to claim the attention of any unprejudiced assembly: but, according to the unfortunate propensities of the high and low vulgar, the Commons, instead of listening to the sound and rational arguments of those who understood the interest of their country, had given themselves up to the guidance of the earl of Shaftesbury, who, from ambition and personal pique, aimed at acting the part of the famous earl of Warwick, and had actually pledged his faith to the duke of Monmouth, that he would procure an act of Parliament to secure to him the succession to the crown.

PREVIOUS to the taking the king's proposals into consideration, an address was presented, in which his majesty was called upon to order the militia of Westminster, Southwark, the Tower Hamlets, Middlesex, and Surry, to be raised: the grand debate was ushered in with the reading such extracts out of Coleman's letters, and those letters of his correspondents which related to the duke of York, and which expressed, that his highness had written thrice to the Pope; that his first letter miscarried; that the second gave his holiness such an excess of joy, that he could not refrain from tears; and that the third was to excuse the consent he gave to have his daughter married to the prince of Orange, and

to acquaint him that the run of the times had obliged him to such an involuntary compliance.

These were not intimations calculated to bring the Commons to the moderation and temper necessary for the importance of the debate, which was managed with great skill on both sides; and it is to be observed, that the exclusionists adopted in the course of their arguments, the high principles of monarchy, and affected an anxiety for the preservation of the rights of prerogative; whilst the king's friends founded theirs on those leading reasons which tend to induce the superiority of a republic; and asserted, that limitations were such desirable objects, that a popish successor, attended with these circumstances, would prove a national blessing. Such a deviation from fixed opinions, forbade any hopes of the rational conclusion of the debate: to the mortification of the few sensible patriots, a bill was ordered to be drawn up to disable the duke from inheriting the imperial crowns of England and Ireland; and it was resolved, *nemine contradicente*, that, in defence of the king's person and the Protestant religion, the Commons would stand by his majesty with their lives and fortunes; and that if his majesty should come by any violent death, they would revenge it to the utmost against the Papists.

Bill of exclusion.

This extravagant vote was, after the copy of a vote passed in the national assembly, in the reign of queen Elizabeth, in the fury of Protestant zeal to preserve the person of that princess from the machinations of the Papists, who, it was supposed, were her only enemies; but as a number of malecontents of all parties were known to exist



**Ans. 1679.** in the present times, this resolution of the Commons was reprobated by the courtiers, as devoting the innocent to punishment indiscriminately with the guilty, and rather exposing the king's person to danger than providing for his preservation, by encouraging desperadoes to attempt his life, in the hopes of securing themselves in the perdition of the Papists.

IN the bill which was brought in for the total exclusion of the duke of York from the crown of England and Ireland, it was declared, that the sovereignty of these kingdoms, upon the king's death, or resignation, should devolve to the person next in succession after the duke; that all acts of royalty which that prince should afterwards perform, should be void, and deemed treason; that if he entered any of these dominions he should be guilty of the same offence; and that all who supported his title should be punished as rebels and traitors. The exclusionists triumphed over their opponents by a majority of seventy-nine; and after this gratification to the party, the friends of liberty united in providing more rational securities for the public safety, and in attempts less contradictory to those concessions which even the convention-parliament had made to the monarchical part of the constitution.

THE patriots, during all the last Parliament, had, with great force and energy, exclaimed against the bribery and corruption of the members, and they found themselves now strong enough to carry the motion for a strict examination into a complaint which threatened such destructive consequences to the security, freedom, and even welfare of the nation. On the confession of Sir Stephen Fox, paymaster, and

and the more rigorous enquiry, by a secret committee, se- Ann. 1679. venteen delinquents of this class were discovered; on which the Commons brought in a bill, excluding from their House all who possessed lucrative offices, and the very excellent one for preventing bribery, and regulating abuses in elections, and for the non-continuance of any Parliament above the space of two years. They set on foot an enquiry into the miscarriages of the navy; committed Sir Anthony Dean and Pepsys, secretary to the Admiralty, for a treacherous correspondence with France, on the subject of naval affairs, and for the fitting out one of the king's ships to cruise on the Dutch, and even on the English, by the favour of a French commission; and they secured that personal liberty which is declared to be the birth-right of an Englishman, in the great charter, and the petition of right, by perfecting the Habeas Corpus bill, which had been planned by the last Parliament, Habeas Corp. bill act. and by which it was prohibited to send any one a prisoner beyond sea; by which no judge, under severe penalties, was to refuse any prisoner a writ of Habeas Corpus; by which the goaler was directed to produce in court the body of the prisoner, and to certify the cause of his detainer and imprisonment; by which, if the goal lay within twenty miles of the judge, the writ was to be obeyed in three days; and so proportionably for greater distances; by which the prisoner was to have a true copy of the warrant of commitment, or detainer, within six hours after demand; by which every prisoner was to be indicted the first term after his commitment, and brought to trial in the subsequent term; and by which no man, after the being enlarged, by order of the court, could be committed for the same offence.

\* We are told by Burnet, that this valuable bill would have been lost with the Lords, but for the following laughable accident: lord Grey

and



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THE conduct of the lords, which was one while influenced by their fears of Popery; at another by the danger of the church; at another by their desire of gratifying the king; and at another by the apprehension of the extension of popular privileges, was as fickle and fluctuating as that of the Commons was firm and inflexible. Through the intrigues of the bishops they had penned their amendments to the bill for the banishing Papists out of London, in such a manner as to comprize all the Nonconformists; and when the Commons, to prevent the depopulation which such a bill would have produced, made the necessary alteration to these amendments, it gave such disgust to their lordships, that the bill came to nothing, and the court had now a favourable prospect of breaking that union between the two Houses which can alone render a Parliament formidable either to king or minister.

THE earl of Danby, agreeable to the order he had received from the lords, delivered in his plea and answer at the bar of the House, in which he made a solemn protestation of his innocence against every part and particle of the impeachment; at the same time laying in an express claim of the benefit of the king's most gracious pardon, which, when made known to the Commons, they sent a message to the Lords to demand of the earl, whether he would rely upon and abide by the plea of his pardon? This question was very prudently, on the minister's side, determined in the affirmative;

and lord Norris, having been named to be the tellers, lord Grey counted a very fat lord, who came in, for ten: this was done at first in a joke, but lord Grey, who was always a zealous friend to liberty, on seeing lord Norris had not observed it, went on with the misreckoning; and the numbers being thus reported to the House, the majority was declared in favour of the bill, tho' it was in reality on the other side.

on which the Commons resolved, that the pardon pleaded by the earl of Danby was illegal and void, and ought not to be allowed, in bar of the impeachment of the Commons of England; and the whole House, with the speaker at their head, went up to the Lords bar, where the speaker, in the name of all the Commons of England, demanded judgment against the said earl, he standing impeached of high treason, and other high crimes, and having pleaded a pardon, which the Commons conceived to be illegal and void. This step of the Commons produced an order, that the Lords would, on the morrow, take into consideration, whether the Lords spiritual were to give their vote in judicature, in cases of blood, or upon bill of attainder; and the House proceeded to fix the following Saturday for the hearing the earl's counsel, to make good his plea; also to address his majesty, that he would be pleased to appoint a high steward to preside on that occasion; and, moreover, at the trial of the five popish Lords, which was fixed for the next Tuesday.

As the pardon granted to the earl of Danby was the single instance in which the prerogative of pardoning had been exerted in the case of an impeachment in parliament, the matter on this reason had never been determined against the crown: a new question now arose in the constitution which was of the utmost importance to public security; and the Commons considering the matter in this light, after having objected to the Lords address for a high steward, on the reason that the Parliament was competent to give judgment upon impeachments, they voted, that whoever should presume, without their leave, to maintain the validity of Danby's pardon, should be accounted a betrayer of the liberties of the English Commons; and they made a demand, that the bi-

shops,



Ann. 1678. shops, who from the first period of that dependent situation, in which the Reformation had left them, had never been known to give a vote against the crown, should be removed, not only when the trial of the earl should commence, but also when the validity of his pardon should be discussed.

By the canon law, bishops were prohibited from assisting in capital trials; and in the earl of Strafford's case, though they pleaded that they were no longer bound by that law, the question was determined against them. We have seen, that in the beginning of this reign, the civilians determined the question in their favour; yet it was resolved in the Lower House, that they should withdraw; and, in the present circumstance, they would gladly have availed themselves of the Commons' vote, and retired into shelter from that storm of unpopularity which their devotion to the crown must, in this point, naturally bring on them: but the king fearing the force of those strong arguments which the Commons had to urge against his dangerous pretensions, would not venture his cause on the votes of the temporal Lords; and told the bishops, that they must stick to him and his prerogative, as they should expect that he should stick to them, when their interests were in question. This threatening intimation had its intended effect, and the bishops now asserted, that the pardon was merely a preliminary, and that neither by the canon law, nor the practice of Parliament, were they ever obliged, in capital cases, to withdraw till the very commencement of the trial itself: that if their absence was considered as a privilege, which was its real origin, it depended on their own choice how far they would insist upon it; if regarded as a diminution of their right of peerage, such unfavourable customs ought never to be extended beyond the very circumstance established by them.

THE

of The Lords admitted the bishops right to stay in court in capital cases, till such time as judgment of death came to be pronounced; and resolved, that the trials of the five popish Lords should begin on the Thursday following. On this the bishops asked leave of the House, that they might withdraw themselves from the trial of the said Lords, with the liberty of entering their usual protestation. This proceeding of the Lords put an end even to the appearance of a good understanding between the two Houses. The Commons insisted, that the bishops had no right to be present at any one vote in capital cases; that the granting leave to withdraw implied a right to stay; and that the asserting and admitting of that right constituted a new court, which they would not acknowledge: that when that matter should be settled, agreeable to the constitution, and the method of proceedings adjusted, they would be ready to proceed on the trial of the pardon of the earl of Danby, against whom they had already demanded judgment; and afterwards to those of the other five Lords; but that postponing the cause of the earl to that of the five Lords, was inverting the order they desired to follow; and that for want of these trials all public business was at a stand: that if they should proceed upon the trial of the said five Lords, before the trial of the earl of Danby, not only justice would be obstructed in the case of these Lords, but they never should have right done them in the matter of the plea of pardon, which would be of fatal consequence to the whole kingdom, and a new device to frustrate public justice in parliament.

The same unhappy divisions which distracted the two Houses of Parliament, existed amongst that modest assembly of men which composed the king's council. The king, instead of performing the promise which he had publicly and



Ann. 1679.

solemnly made of laying aside private advice, continued to cabal with those individuals whose prejudices were fitted to his purposes, on whose ambition he could operate, and whose judgment he could deceive. Sir William Temple, a man of honour, though of a whimsical disposition, and a kind of Epicurean philosopher, was neither for the limitations or the exclusion, and refused to co-operate with lord Sunderland, lord Essex, and lord Halifax, in the design they had formed of bringing the king to consent to the banishment of the duke, either for a certain time, or during his majesty's life. Half the council were divided between the limitations and the exclusion; and even the lords Sunderland, Essex, and Halifax, began to grow so jealous that the duke of Monmouth and the lord Shaftesbury, would get the king into their hands, through the power they had over the Parliament, that they gave way to the expedient of proroguing this assembly: and on the notice that an address was framing in the city, signed by an hundred thousand men, giving thanks to the national assembly for their vigorous proceedings in discovering the plot, and opposing of Popery, and promising to assist them with their lives and fortunes, also that there were remonstrances ready prepared in the House of Commons, so inflame the discontents of the nation, they gave into the sudden execution of the measure, without even communicating it to the council, contrary to the king's express declaration, that by the constant advice of such a council his majesty was determined hereafter to govern his kingdom, together with the frequent use of his great council of Parliament, who, in the midst of their disputes concerning the pretensions of the bishops, were surprised with the news, that the king was coming to prorogue them, a measure which filled the exclusionists with an equal degree of astonishment and indignation;

Parliament  
prorogued.

tion; and the Lord Shaftesbury was so far transported, as even, *Ann. 1679.* in the house, to threaten that he would have the heads of those who had been the king's advisers upon this occasion \*.

It is very mortifying to human sagacity to observe, that the course of sublunary affairs is attended with an uncertainty which often crowns the blockhead with success, and foils the brightest and the clearest understanding. The great leader of the exclusionists had formed his hopes of setting his favourite on the throne, on the supposition that the king's evident necessities would oblige him to listen to any terms which the Parliament, on the conditions of an adequate supply, should impose, on the known affection which the king bore his son, and on the support of his favourite mistress, whom, under the pretence of a compliment to his deceased sister, the dutchess of Orleans, he had preferred to the first place in the seraglio, and had created her dutchess of Portsmouth.

To this woman's known influence over the king, the public had ascribed that obstinate adherence to the French interest, which had brought him into all his difficulties: she was bribed by the exclusionists with the promise of a reward of one hundred thousand pounds, if she would support the pretensions of the duke of Monmouth; but, happily for his rival the duke of

• Acts passed: An act for granting a supply to his majesty of two hundred and six thousand four hundred and sixty-two pounds seventeen shillings and six pence, for paying off and disbanding the forces raised since the ninth twentieth of September, 1677.

An act for the better securing the liberty of the subject, and for prevention of imprisonments beyond the seas.

An act for re-engrossing of the records of fines burnt or lost in the late fire in the Temple. *Statutes at Large.*



Ann. 1679. York, the king was so possessed with the opinion, that his prerogatives, if not his personal liberty, entirely depended on a steady adherence to his brother's interests; and the principles of that party which espoused his cause, that the arts and cajolements of the dutchels of Portsmouth had, in this grand point, no effect. The king's coffers, it is true, were empty; for the earl of Danby had taken so good care of himself, as not to leave above a few shillings in the Exchequer; his officers and servants were clamorous for their salaries; his garrisons were out of repair; his military stores were emptied with the furnishing the French with arms and ammunition; his revenue lay under debts and anticipations to the amount of near three hundred thousand pounds; and a little current cash for private pleasures and necessary expences, would have been wanting, if the French king had not taken his necessities into consideration.

Dalrymple's  
Appendix.

This monarch, on a suspicion that Charles had received a bribe of two hundred thousand pounds from the prince of Orange, had refused to listen to his submissive advances; which went so far as to offer to put England for ever under the dependence of France. Barillon, who had as great a suspicion of Charles's integrity as any of his subjects, and who was engaged in intrigues with the popular party, always advised his master not to trust to the king's promises, or advance any sum of money till the army was disbanded. At length the resentment of the court of France having been fully gratified with the disgrace, the imprisonment, and the dismissal of Danby, both Barillon and his master began to fear, from the obstinacy of the Parliament, and the indigence of the king, that the duke of York, whose councils they governed, would be excluded from the right of succession, and the crown devolve to the prince of Orange, who was a professed enemy

to

to France, or to the duke of Monmouth, who would be led by his popular engagements to act in opposition to its interests. In this view of things, they began to attend to the repeated solicitations of Charles: a new treaty was set on foot, to the following purport; that the duke of York was to be recalled; that the king was not to assemble a Parliament for the space of three years; that neither party should enter into treaties prejudicial to each other; that Lewis should not attack Flanders; and that Charles should have a pension.

Treaty with  
France.

As the king's council, in order to prevent any suspicion of new foreign connections, had made a regulation, that foreign ministers should not speak to his majesty without first asking an audience, the meetings between the king and Barillon were secret, and not without manifest signs on the king's part of the fear of detection. The terms of the treaty were adjusted in the duchess of Portsmouth's apartment, and Barillon gives an account of the arguments urged by the king, the duchess, and the earl of Sunderland, to convince Barillon of the advantages which Lewis would receive from the gratifying Charles in his pecuniary request, who told the ambassador, that it was now in the power of his master to give establishment to the most glorious state that any king had been in for many years, and put it out of the power of England to hurt him: he observed on the many advantages which the French king would derive from having England always dependent upon him: lord Sunderland enlarged much on the same topic; and the duchess of Portsmouth added, that if his Most Christian Majesty would give four millions a year, during three years, the king of England would enter into all the engagements his majesty could desire. Barillon was at this time so well convinced of the sincerity of these concessions, that he told Lewis,

that



Ann. 1679. that if the sum could be agreed on, Charles would give him a carte blanche upon every thing he could demand, and would enter into a solemn engagement, not to make any treaty with foreign princes without the leave of the Most Christian King, and even oblige himself to enter into all his interests, and favour all his designs: but either from the exhausted finances of France, or the imbecility of Charles's situation, Lewis did not think proper to pay the price demanded for his services; and the ambassador brought the king and his confidants down from the demand of fourteen millions of livres, to be paid in three years, to the acceptance of one million of livres per annum during the same space of time.

The duke of York at this time resided at Brussels; and the king having communicated to him the matter of the negotiation, he sent colonel Churchill to Paris, to forward the treaty: threw himself on the protection of the king of France; assured him, by letter, of his gratitude for the terms he had stipulated in his favour; asserted that it was from him alone he could expect the re-establishment of his affairs in England; and, what is very extraordinary, since it shows that, even to facilitate measures, the most important to the interest of his ambition, the duke would not venture his money, or put any confidence of that kind in his brother, he offered to lend Lewis the sum which that monarch should agree to pay to the king of England.

It is to be observed, for the honour of the marquis of Halifax, the earl of Essex, and even Sir William Temple, who seems to be much more concerned for the interests of the succession, and the state of Europe, than the internal welfare of his own country, that neither of these counsellors were

were in the secret of the French treaty, and, consequently, Ann. 1679.  
 as they could never imagine that the prorogation of the  
 Parliament could terminate in emancipating the king  
 from the constitutional influence of those assemblies, they  
 only advised the measure with the view of gaining time to  
 operate on the inflamed minds of the popular leaders: how-  
 ever, the earl of Essex, whose designs were truly noble, ho-  
 nest, and patriotic, was, in the end, fatally convinced that  
 the cause of liberty is much safer in the hands even of mis-  
 guided men, who act on popular principles, than in those  
 of weak or ill-designing princes and corrupt ministers; and  
 that a very considerable alteration in the temper of parties,  
 much to the advantage of the worst intentions of the court,  
 had taken place during the interval of the first meeting of  
 this Parliament and the prorogation.

WHEN men are warmed with a sense of national injury,  
 it is not easy to preserve that moderation which, in political  
 disputes, are above all things necessary towards the attain-  
 ment of public ends. The high churchmen, who from a jea-  
 lously of the popish interest, had been the most forward in  
 the prosecution of the plot, and by joining with the friends  
 of liberty, had produced a kind of temporary unanimity in  
 the counsels of the public, began to abate of their zeal when  
 the exigencies of the monarch had rendered it necessary for  
 him to unite his interests with those of the church. In pro-  
 portion as the common danger abated, by the humiliation of  
 the Papists, the unextinguished animosity which rankled  
 in the breast of every high-churchman, rekindled against the  
 Non-conformists, and first discovered itself in the attempt to  
 confound them with the popish party, in the penalty of ba-  
 nishment. This attempt, with the conduct of the bishops,

Animosity  
of parties.

in



Ann. 1679. In the ear of Danby's impeachment, raised a general outcry against the prelatical order, even among those who were supposed to be their friends: a stricter union than formerly took place between the Non-Conformists and the moderate Episcopalians; and the bishops, the clergy, and the court, were treated with severity, in the daily publications by both parties. That natural heat and violence which has ever characterised the devotees to the church, thus inflamed with provocation, and perhaps with a fear that the spirit of reformation would exceed the bounds of a due obedience to the ecclesiastical powers, and aim at the mitre as well as the prerogative, retaliated with great virulence in their turn: and, lest these dissensions, which were so favourable to the views of the king and his brother, should abate, and the parties again unite in the forwarding and completing public measures, one Roger l'Estrange, a man in the pay of the court, who possessed a flowery imagination, published three or four sheets a week, under the title of the *Observer*, all tending to defame the popular party, and to fill the clergy with apprehensions that their ruin was intended. The venom of this incendiary writer spread like wild-fire among the party; the clergy exclaimed with the utmost virulence in their pulpits, and in common conversation; the fears of Popery were entirely subdued; that plot which they had represented in such dreadful colours forgotten; the year forty-one resounded in their mouths; and the nation thus rent between two factions, acting on the opposite principles of liberty and slavery, afforded a prospect which filled the intelligent with melancholy forebodings that the contention would either end in a prosperous rebellion, or in an abject submission of the nation to the humours of the court.

MODERATE

MODERATE men had beheld, with the greatest regret, the opportunity lost, in which salutary bounds might have been set to the power of a popish successor, and the people, by degrees, accustomed to the enjoyment of that liberty which was so desirable an object to one part of the society, and so abhorred by the other, in which ill ministers might, at least, have been punished in a certain degree, and by a compromise with the king, the rational and equitable pretensions of the Commons respecting the right of bringing such state delinquents to justice, firmly established by statute-law. All these great advantages, it must be owned, were lost by the obstinacy of the exclusionists, who vainly hoped on the authority of precedents, and the necessities of the crown, to combat the omnipotent power of the church, whose favourite doctrine had been that of an indefeasible right, and who regarded, with apprehension, the interest the Nonconformists might have in a monarch who should owe his elevation to their favour and support.

THE vigorous measures which had been pursued by the English Parliament, to exclude the duke of York from the throne, and to inflict punishment on the minister Danby, encouraged the Scotch covenanters to recede from that patient submission with which they had long endured the tyranny of Lauderdale's administration, the concurrence of their sovereign in the violent measures of this hated minister, and the treacherous conduct of their own Parliament, who had lent their authority to rivet the chains of the nation. The earl of Shaftesbury, in a spirited speech which he made in the House of Lords, on the conduct and views of government, had set forth, in strong colours, the oppression under which Scotland had long groaned, and asserted, that Po-

Affairs of  
Scotland.

Dalrymple's  
Memoirs.



Ann. 1679. pery was intended to precede slavery in England, and slavery had been the forerunner of Popery in Scotland. Forty copies of this speech had been sent down to Edinburgh the very day it was spoken: it was read with avidity by the covenanters, who drew together in great bodies, and with such an appearance of military strength, that they deterred the king's troops from venturing to engage them.

SHARPE, the archbishop of St. Andrew's, from the circumstances of his apostacy, his treachery, his perjury, covetousness, insolence, and cruelty, had long been the object of contempt amongst the moderate men of his own party, and the detestation of the persecuted covenanters. A party of these Dissenters, in the road near St. Andrew's, had waylaid one Carmichael, an officer under Sharpe, who, by his violent persecutions, had rendered himself almost as odious as his superior: it was only intended to inflict such corporal punishment on this man as should render him hereafter more cautious and less offensive in his conduct; but when, instead of Carmichael, the covenanters, to their great surprize, beheld the archbishop's coach pass by, they interpreted this incident as a declaration of the secret purposes of Providence against him, and were confirmed in this belief by the observation that he was attended only by a few of his usual train of servants. Filled with the animating idea that God, in compassion to their sufferings, and as a reward to their religious constancy, had delivered their capital enemy into their hands, and appointed them the instruments of his justice, they, without farther deliberation, fell on the aged primate, dragged him from his coach, tore him from the arms of his daughter, and piercing him with redoubled wounds, left him dead on the spot, and then dispersed.

Archbishop  
of St. An-  
drew's mur-  
dered.

THIS

THIS unfortunate end of Sharpe, the natural consequence of a long succession of misery, which he had inflicted on others, and in particular of his treatment of Mitchel, who fell a victim to his cowardice, as well as cruelty, served the ministry as a pretence for a more violent persecution against the covenanters, whom they involved in the guilt of the archbishop's death, whom they charged as the forgers of all bloody and jesuitical principles, and whom they forbid, under the pains and penalties of treason, to meet at any field-conventicles.

THE covenanters thus reduced to despair, on the 29th of May, the anniversary of the Restoration, met at Rutherglen, a small borough near Glasgow, where they set forth a declaration of their grievances, and against prelacy; and where they burnt, in the market-place, several acts of Parliament, and acts of council, which had established that mode of ecclesiastical government. At Loudon Hill they were attacked by captain Graham, afterwards viscount Dundee, with a body of three hundred dragoons: the covenanters at this time did not exceed in number five hundred men; they were ill armed, and without any leaders of note and character, yet they repulsed captain Graham, and the next day took possession of Glasgow, where they made proclamation that they fought against supremacy, popery, and prelacy, and issued their commands to the magistrates to turn out all the archbishops, bishops, and curates, their children and servants, and all families and servants concerned in the king's army.

Rising of the  
Scotch cove-  
nanters.

WHEN the intelligence of the defeat of Graham, and the taking of Glasgow reached Edinburgh, the earl of Linlithgow, with a body of one thousand foot, and four hun-



Ann. 1679. dred horse and dragoons, were sent in quest of the insurgents, and returned without looking them in the face; a conduct which some imputed to fear, and others to the political intention of giving the malecontents time to fall into such excesses as might, in some measure, justify the cruelty of Lauderdale's administration.

Those individuals among the nobility and gentry, who favoured the religious principles of the Dissenters, those who regretted the abject slavery into which their country was fallen, and those who had been personally ill-treated by Lauderdale, had given their countenance to the malecontents; at the same time that with the timid caution natural to men who have estates and titles to lose, they had denied them support; and taking advantage of the situation of affairs in Scotland and England, they deputed the duke of Hamilton and others of the nobility, to demand of the king, in the name of the Scotch nation, justice on the duke of Lauderdale.

LORD Shaftesbury's personal attack on Lauderdale, in the House of Peers, having proved ineffectual, the charge was renewed against him in the House of Commons; and on the arrival of the Scotch deputies in London, they were received in a kind of triumph by the party in opposition. The council was called for the consideration of their complaints. Lord Ruffel, whose amiable deportment in private life was as conspicuous as his zeal in matters of public concern, who had distinguished himself for the motion concerning the removal of the duke of York, now testified his abhorrence against that tyranny which had driven the Scots into such desperate councils, by telling the king, that he was so far from wondering at the circumstance of the insurrection, that he

he rather wondered that it did not happen long ago, since Ann. 1679. his majesty thought fit to retain incendiaries near his person, and in his council. On this the duke of Lauderdale offered to withdraw, and said, he did not know but the debate might terminate in him; but the king thinking it proper to lend his royal countenance to his most faithful servant, replied, "No, no, sit down, my lord, this is no place for addresses;" and when the Scotch lords endeavoured to persuade the king to compose the troubles which prevailed in Scotland without blood, by easing the extreme pressures under which that people groaned, and by putting the government in the hands of men who were acceptable to the nation, they were brow-beaten and discountenanced; and it was determined to send an English army against them, under the command of the duke of Monmouth. On this a doubt arose in the council, "Whether it was lawful to invade Scotland by an English army, since, in the pacification treaty made in the reign of king James the First, it was articulated, that neither kingdom should hostilely invade the other?" And by an act of Parliament passed in both kingdoms, in the year 1641, it was made treason for any person belonging to either, to make war upon or invade the other, without the consent of Parliament. On the raising of this doubt, the lord Grey of Wark, who was to command the horse, resigned his commission; Mr. Thynne refused to take any; lord Cavendish declined raising any men upon his; and the lord Brandon Gerrard declared he would not serve, unless the commissioners of the treasury made his levies for him, and provided money for their pay.

It is easy to see that these difficulties arose from the reluctance the patriots had to shed the blood of those who were



Ann. 1679. induced to rise on the motives alone of self-preservation; and as all remonstrances, either from the Scotch or English subjects, had proved ineffectual towards the redress of the grievances of that oppressed nation, they would have been glad to have seen the king reduced to the necessity of doing that by compulsion which he had denied to the calls of justice and the motives of humanity: it is probable also, that those who thought a revolution absolutely necessary for the preservation of freedom and the Protestant religion, and who favoured the pretensions of the duke of Monmouth, looked forward to the assistance of the covenanters, who regarded, with an extreme horror, the succession of an avowed papist to the throne. This opposition to the dispatching an English army into Scotland, increased the jealousies of the king and his confident Lauderdale. The duke of Monmouth was sent post to his command, with the small number of forces then on foot in England, and contrary to the unanimous advice of the council, and to the fixed resolutions passed at the board, that, in order to save the blood of an oppressed desperate multitude, the general should be left at liberty, either to fight, or to treat, as he thought proper, the mandate of the commission, by the secret advice of Lauderdale, was altered, and positive injunctions were laid to fight the insurgents, with an instruction that the orders were not to be opened but at a council of war, and in sight of the enemy.

It was not till the 15th of July, that the duke of Monmouth set out for Scotland: he made such speed, that he reached Edinburgh in three days, and having put himself at the head of the king's forces, came in sight of the enemy on the 22d, who were drawn up in two bodies, and had posted

posted themselves behind the river Clyde, over which there Ann. 1679.  
was no passage but by a bridge which they had barricaded  
with stones.

As the insurgents had been informed that the general had power to treat, they beat a parley, and sent a petition to the duke, requesting safe-conduct for some of their members to lay open their hearts, &c. Their request was granted, the deputies arrived, and complimented the general on his character for mercy, and as one who had power to do them good. The duke answered, "That he should be glad to prevent the effusion of blood, and to that end was willing to hear what it was they desired." On this they read a declaration they had set forth at Hamilton, which confined their pretensions to the securing the Protestant religion and presbyterian government, the obtaining a free Parliament, and a free general assembly, and the restoration of all things to the state in which the king found them, when God brought him home to his crown and kingdoms, and which set forth the following forcible reasons for their present conduct; that their faithful ministers had been thrust out from their charges, confined, imprisoned, exiled, and put to death; that a company of insufficient and scandalous persons had been intruded in their place; that the covenanters had been fined, confined, imprisoned, tortured, tormented, scourged, and stigmatised; their goods plundered, their persons sold to foreign plantations; horned and intercommuned; forced to leave their dwellings, wives, children, and relations; made to wander as pilgrims, still in hazard of their lives, none daring, on hazard of the same punishment, to harbour or supply them, though in a starving condition, and even in the agonies of death; that they had likewise groaned under the intolerable yoke



Ann. 1679. yoke of oppression in their civil interests, their bodies, liberties, and estates, so that all manner of outrages had been exercised upon them through a tract of several years past, particularly in the year 1678, in which an armed host of barbarous savages had been sent among them, and in which several impositions and taxes had been laid on them, by a meeting of prelimited and over-awed members, in the convention of estates, for the keeping up an armed force, entrusted into the hands of avowed Papists, by whom sundry invasions had been made, and most exorbitant abuses and incredible insolencies committed, by whom they had been prevented from meeting in their houses for the purposes of divine worship, and by whom they had been assaulted whilst they attended the Lords ordinances in the field, and by whom they had been obliged to take the remedy of arms, the magistrates having shut the door against redress by a law against application.

THIS declaration, which is a brief and true account of the impolitic cruelties of Lauderdale's administration, ended with an invitation to all those who were under the same bonds of religion, to concur in the defence of the common cause and interest, with a warning, that if they should stand by, and see their brethren oppressed when they were broken, they would be the next sacrifice, or be obliged to wrong their consciences; and, with a declaration, that the Covenanters did not seek or desire any man's blood or hurt.

Battle of  
Bothwell  
Bridge.

THE duke of Monmouth, whose tractable disposition inclined him rather to depend for the attainment of the object of his ambition to the partial indulgence of a father, than on any violation

violation of the laws of nature or fidelity, instead of taking the advantage of circumstances, adhered strictly to the letter of his instructions; and refusing to enter into any treaty with the insurgents, demanded an absolute submission to the king's mercy. This was peremptorily refused; a combat ensued, in which the covenanters defended themselves with more bravery than judgment, and were, at length, totally subdued by the superior advantage of a good train of artillery. Seven or eight hundred were killed on the spot, and twelve hundred taken prisoners, who were saved from immediate execution by the authority of the general, and they were afterwards treated with great humanity: a conduct which, however it might suit with the ambitious views of Monmouth, was perfectly agreeable to the humanity of his disposition, but was represented by the duke of York and his party as a bait for popularity, and a deserting the king's interest. He was sent for in all haste out of Scotland. Charles reproved him for his clemency, and told him, "That if he had been in the field of battle, they should not have had the trouble of prisoners." The duke replied; "He could not kill men in cold blood, this was the work of butchers."

When the event of Monmouth's expedition yet hung in suspense, it was deemed prudent to give some attention to the complaints of the Scotch nobility and gentry. The duke of Hamilton, and the rest of the deputies, had put themselves under the patronage of the lords Essex and Hallifax, and had stipulated, that they should be present when the cause was pleaded, and that they should have the assistance of lawyers. These matters being determined, Lockhart and Cunningham were chosen by the deputies, whilst the king called for the assistance of the crown advocate Mackenzie; and on the opening



Ann. 1679. the business, declared, that the points formerly spoken to did relate to his prerogative, which, in three points, he would not suffer to be touched: first, that he having the right of disposing of all places, might incapacitate such persons as he should think fit: that as it belonged to him to prevent conspiracies, he might secure and imprison all suspected persons: that there was no habeas corpus in Scotland, nor should be as long as he lived: that it being his part to prevent, or to quell rebellions, he might raise such forces as he pleased, quarter them where he thought fit, and employ them as occasion required.

LOCKHART ventured to deny the right of these positive claims, which contained the essence of despotic monarchy. He said, that the places in question were those belonging to counties and corporations, which had ever been filled by the free election of the people, according to their charters; and as for what his majesty was pleased to assert relating to conspiracies, it was neither agreeable to the laws of Scotland, nor to the laws of any free state, nor to the ends for which that, or any other government, was constituted. Burnet assures us, that Lockhart's arguments were unanswerable; and that Mackenzie had no other shelter for his client Lauderdale, but that flourish in the act against field-conventicles, in which they were called the rendezvous of rebellion: that every article of the charge against the commissioner was fully proved: that the lords Essex and Halifax openly declared, that the complainants had made out their allegations: that the last nobleman, in particular, made no scruple to tell the king, that the Scotch nation was even more free than the English: that the king had nothing to say in defence of the administration; and when May, the master of the privy purse, who lived in great familiarity with his majesty, asked him, in a joking way, "What he thought now of his

his Lauderdale?" he returned the following most unprincipely Ann. 1679.  
 answer: "They have objected many damned things which  
 he has done against them; but there is nothing objected  
 which was against my service."

THE total reduction of the Scotch covenanters, enabled  
 the king to put these unworthy sentiments into practice: on  
 the issue of the business, it was pronounced, that Lauderdale  
 had done nothing but what his majesty had commanded, and  
 what he would uphold by virtue of his prerogative, which Decision in  
 favour of  
 Lauderdale's  
 administra-  
 tion.  
 was above law. The Scotch lords fearing to be involved in  
 the difficulties of those who, in cases of opposition, do too  
 much or too little, were glad to give over the pursuit, and  
 to compound for their quiet and safety; and the nation would  
 have been involved in all those additional miseries which  
 commonly attend an unsuccessful contest for liberty, had it  
 not been for the generous interposition of Monmouth, who  
 asserted, that the rising in Scotland had flowed from the in-  
 tolerable severity with which the Presbyterians were treated;  
 and on these reasons urged the king to grant an act of in-  
 demnity for what was past, and a liberty to hold conven-  
 ticles under his licence or connivance. As Lauderdale  
 had more to fear from the English Parliament than  
 from the reiterated complaints of the Scots, the king  
 thought proper to yield to the duke of Monmouth's in-  
 tercession; but the granted act of indemnity was worded in  
 such a manner, that it was rather an act of grace to Lau-  
 derdale and his partizans, than to those in whose name it  
 was issued. All gentlemen, officers, and preachers, were ex-  
 cepted out of it, and, in consequence, two of the most no-  
 torious of the offenders were hanged, two hundred were  
 E c 2 embarked



Ann. 1679. embarked for Virginia, and perished in their passage, and the rest were obliged to enter into bonds for their good behaviour; whilst the triumphant Lauderdale maintained his credit at court and his power in the state, and, consequently, became more terrible than ever.

Prosecution  
of the Pa-  
pists.

IT was now become the politics of the court to gratify, or rather to glut, the people with the blood of the Papists, in order to divert them from more dangerous pursuits. The prosecutions against these ill-fated sectaries met with no interruption from the recess of Parliament: Whitebread, provincial of the Jesuits, Fenwic, Gavan, Turner, and Harcourt, all of the same order, were, on the 13th of June, brought to their trial; Oates, Bedloe, and Dugdale, were the witnesses: the last of these asserted, that 200,000 Papists were ready to take arms, and charged Whitebread with the writing a letter to Ewers, by the common post, directing him, Ewers, to chuse desperate, hardy, courageous, and stout fellows, to kill the king, the odium of which was to be thrown on the Presbyterians; and Harcourt, with sending another to the same person, in which were these words, "This very night Sir Edmundbury Godfrey is dispatched." The sending a letter by a common post, with such treasonable contents, without the making use of the common disguise of cyphers, was very unlike the sagacious cunning of Jesuits; and the prisoners proved, by sixteen witnesses from St. Omer, students, and most of them men of family, that Oates was in that seminary at the time when he swore he was in London: but to take off the force of these evidences, Oates got seven or eight persons to depose, that they saw him in England at this time; and that he being known to them formerly in a clergyman's habit, it made the greater impression on

on them, and what was yet a more confirming circumstance, *Ann. 1679.*  
an old Dominican friar swore to the same purport.

It is no wonder, when the minds of men were so strongly prejudiced against Jesuits, that this circumstance should have been sufficient to blast the credit of the St. Omer's scholars, who were not only Papists, but disciples of the Jesuits. The lord chief justice Scroggs, the lord chief justice North, and all the other judges, agreed as to the guilt of the prisoners, who received sentence of death, and at the time of execution, persisted to the last moment in solemn, earnest, and deliberate protestations of their innocence.

LANGHORN, an eminent lawyer, by whom all the concerns of the Jesuits were managed, was next brought to his trial. Oates and Bedloe swore, that all the papal commissions by which the chief offices in England were filled with Catholics, had passed through his hands; that he had registered several treasonable letters from Coleman to father Le Chaife; that he had solicited 6000*l.* of the Benedictine monks, for carrying on the design of the king's death; and that he had called Sir George Wakeman a narrow-souled physician, for not being content with 10,000*l.* to kill the king. Langhorn insisted on some obvious contradictions in the depositions which Oates had given at the several trials; but the judges were not ashamed to insist, that great difference was to be made between a narrative upon oath, and an evidence given in court. When the prisoner farther objected to Bedloe what he had sworn before the House of Lords, viz. "That he had no other person to charge either in the House or out of the House, and that he was not one of the persons whom he had at  
that



Ann. 1679. that time mentioned, the court would not suffer a copy of the record to be read, and, upon the whole, directed the jury to find him guilty, provided they thought the witnesses which appeared to support Oates's testimony deserved more credit than those brought from abroad to destroy it. This produced the dreadful verdict, guilty, which was applauded by loud acclamations; and to such a height had the savage rage of the populace mounted, that the witnesses for the prisoner, on approaching the court, were so abused by the mob, that it was at the utmost peril of their lives they came forward to discharge their consciences: one was bruised in such a manner, that, according to what the earl of Castlemain asserted, there was reason to think the blows would bring on his death; and on this circumstance of terror, a woman declared, that unless the court could afford her protection, she durst not give evidence. As the judges could not, or would not, go any further than to promise to punish such as should do her any injury, the prisoner had the humanity to wave her testimony; he had defended his life with great sagacity, and had shewn no indecent resentment at the hardships with which he had been treated. His execution was delayed for some weeks, in hopes that matters of importance might be drawn from him; but he protested, and persisted in these protestations to his death, that he had nothing to discover but the estates and stocks which the Jesuits had in England. He spent the time in which his execution was respited, in writing some very devout and well-composed meditations; also a paper, in which, under thirteen several heads, in plain and significant terms, he denied every part of the charge brought against him by Oates and Bedloe. He died with great constancy, and left behind him the character of being very learned

Burnet.

learned and honest in his profession, but highly bigotted in Ann. 1679. his religion.

Thus far the informers, supported by the policy of the court, the craft of the intriguers, and the prejudices of the honest and the well-meaning, had proceeded with success; but they now received a very considerable check on the trial of Sir George Wakeman, whom they had accused of an intention to poison the king. There was not any circumstance in the contradiction of the evidence more favourable to Wakeman than what had appeared equally to favour those prisoners who had been condemned and executed; and the single circumstance which occasioned his acquittal, was the connexion of his cause with that of the queen. Scroggs, the chief justice, had hitherto favoured the witnesses, had used all his authority to influence the jury, had played the lawyer instead of the judge, by discountenancing the evidence for the prisoners, saying, at one time, "You have such a swimming way of melting words, that it is a troublesome thing for a man to collect matter out of them;" at another, "That if it was the last words he should speak in his life, he should find the prisoners guilty;" at another, after verdict was pronounced, "You have done, gentlemen, like very good Englishmen, and very good Christians; that is to say, like very good Protestants; and now much good may their thirty thousand masses do them." In summing up the evidence against the five Jesuits who were last executed, he said, addressing the prisoners, "We have a testimony, that for promoting your cause you would not stick at the Protestants blood; you began with Sir Edmundsbury Godfrey, but who knows where you would have made an end: it was this one man you killed in his person, but in effigy the whole nation: it was in one man's



Ann. 1679. man's blood your hands were embrued, but your souls were dipt in the blood of us all: this was a handful of what was to follow, and so long as we are convinced you killed him, we cannot but believe you would also kill the king; we cannot but believe you would make all of us away that stand in the way of your religion; a religion which, according to what it is, you would bring in upon us all, by a conversion of us with blood, and by a baptism with fire. "God keep our land from the one, and our city from the other!"

THIS language, which might be very natural in the mouth of an individual whose imagination had been strongly impressed with the perusal of Fox's Martyrology, and other histories of Protestant suffering, was undoubtedly ill-becoming the character of a judge; the peculiar duties of whose office it is to be a kind of counsel and assistant to the prisoners at the bar, and who, in summing up evidences, are not only to direct the jury to discard prejudices, but to set an example of candor in judgment. Scroggs's indecent vehemence, according to Mr. North, was owing to his opinion, that lord Shaftesbury had a great power over the king; but when enlightened on this subject by the lord-chief-justice of the same name, he began to hang down his head, and to make deep reflections; and this conversation, with the obvious consideration, that the queen was highly interested in the issue of Wakeman's trial, disposed him to turn as fierce against Oates and his plot, as he had ever before ranted for it. In his address to the jury, he accompanied the state of Bedloe's evidence with an "If you believe this;" dwelt on the inconsistencies which, in the course of every trial, had been apparent in that of Oates, and expressed himself to this effect: "Let us not be so amazed and frightened with the  
the

the noise of plots, as to take away any man's life without reasonable evidence: this man's blood is at stake, and your souls and mine; and our oaths and consciences are at stake, and therefore never care what the world says: follow your consciences. If you are satisfied these men speak true, you will do well to find him guilty, and he deserves to die: if you are unsatisfied upon these things put together, and they do weigh with you that they have not said true, you will do well to acquit him. The jury, according to custom, took their cue from the judge, and acquitted the prisoner; but Oates and Bedloe were thunder-struck with a conduct so different from what they had experienced from the bench: they charged the chief justice in open court with the not having summed up the evidence right; and as the inconsistency of his behaviour in the important office of judge, fully proved either a base compliance with the interests and inclinations of his superiors, in opposition to the duties of an upright magistrate in the present case, or a yet more criminal compliance with the humour of the populace, and the designs of the great in the condemnation of the innocent, he was justly the object of resentment of the truly honest and patriotic, as well as of those who, on party views, endeavoured to support the reputation of the witnesses. The day after the trial, the Portugal ambassador went in great state to return the chief justice thanks for the part he had acted, a circumstance which so highly exposed him to censure, that it was thought the compliment was paid on the design to ruin him; for, however well pleased the Papists might be with Serogge's management of this trial, they could not be supposed to forgive the imputation on the party, and the blood of so many victims who had fallen a sacrifice to his violent and indecent partiality.

Acquittal of  
Sir George  
Wakeman.



Ann. 1679.

SIR George Saville, created viscount Halifax, was at this time in the highest confidence with the king; his parts were sufficiently lively, and his conversation, in matters of religion, sufficiently libertine to render his company very agreeable at court: he passed for a bold and determined atheist, yet was not exempt from qualms of conscience when the vivacity of his spirits were lowered with fits of sickness; on which visitations he seemed full of good purposes, which always took their flight with the departure of the physician and the apothecary: he affected to talk much of morality, friendship, and the superiority of republican principles in government; yet, though just in his private dealings, would sacrifice his friend and his opinions to the views of ambition; the liveliness of his imagination and the vanity of shewing his wit, quailed his judgment in the most important points, and rendered him endless in consultation: he affected a high sense of philosophy and contempt of the world, yet acted in direct opposition to his professions for the attainment of titles, which he pretended to treat as rattles to please children; and in excuse for his conduct, said, "That since the world were such fools as to value these matters, a man must be a fool for company." Lord Halifax, from that ambition which men of great expectations have to a formidable rival, stood in opposition during the earl of Danby's ministry: he joined with the herd of his opponents in the persecution, and incurred the personal enmity of the king, for a very severe reprimand which he had given the treasurer at the council; but when this lord was dismissed, and by the earnest recommendation of Sir William Temple, Halifax regained a place in the king's confidence, he fell into all his majesty's designs, endeavoured

resolved to maintain an ascendancy over his mind, by a liberal conversation, and declared himself a professed champion for the court, against the schemes of his uncle, the earl of Shaftesbury and the whole body of exclusionists. Tillotson and Burnet, though they condemned that obstinacy in the patriots which led them to neglect the real services which they might have rendered the public in the pursuit of objects not to be attained without difficulty and danger, yet finding so large a majority of the Commons determined on the point of exclusion, they endeavoured to prevail with lord Halifax not to throw every thing into confusion, by a division of the friends of liberty; but all their arguments were vain: a violent enmity had taken place between the uncle and the nephew; Shaftesbury had publicly threatened vengeance on Halifax for the counsel he had given to prorogue the Parliament; and Halifax, in order to set him at defiance, and avoid the resentment of this assembly, fell in with the king's measures for a dissolution.

THE earl of Essex, from a sincere desire to see limitations set to the prerogative, had taken a part against the exclusivists, and was persuaded to concur in the dissolution. The assent of Sir William Temple, who seems to have been always the dupe of his own vanity, and the king's cajolements, was easily obtained; but when, for form's sake, it was proposed to the council, his majesty had the mortification to find the appearance of disapprobation and astonishment, in the face of almost every one at the board. After a long pause, the lord chancellor broke the way, and declaimed long and violently against a dissolution. The lord president Shaftesbury, the lord privy-seal Anglesa, the lord chamberlain Arlington,

## Diffolution of the Par- liament.



Ann. 1679, followed the example of the chancellor: every individual of the council, except the two lords before mentioned, and Sir William Temple, opposed it with warmth and earnestness; and the king, who had been long determined on the measure, was driven to the necessity of opposing almost the unanimous opinion of the board, and of laying his commands on the chancellor, to draw up a proclamation for dissolving the Parliament, and calling another.

The unpopularity of the measure of a dissolution was much aggravated by the insincerity of the king's conduct; who, in less than three months after he had publicly and solemnly promised to act no more by the advice of private confidants, was twice induced to trespass as publicly on that engagement; first by proroguing the Parliament without the knowledge of the council; and then by dissolving it without their concurrence. The lord Shaftesbury, the lord Russell, and several others, discovered high resentment on the occasion; the nation was thrown into a ferment, which boded violent convulsions; court and country were now the leading party words; the press teemed with virulent publications on both sides the question; and when the advice or concurrence of lord Halifax was rewarded with an earldom, this republican nobleman, as he affected to stile himself, was declaimed against with as much bitterness as lord Danby had been before him, and was equally threatened with parliamentary justice.

State of parties.

Division of the Party.

One of the pamphlets set forth on the side of the court, attempted to prove, by a variety of arguments, the advantages of frequent parliaments. This was answered by a Non-conformist, who, after speaking with acknowledgments of the country's being restored to its ancient right of frequent parliaments,

parliaments, enters into a spirited narration of the conduct of the clergy; accuses them with the being active instruments to sow jealousies between subjects and their sovereign; of having been the authors of all the sanguinary and persecuting laws which had taken place in all governments; of having stiffly stood to the point of legal subjection, when the king was inclined to suspend a penal statute in favour of the persecuted Dissenters: but now the tables were turned, the same mercenary pens were again all Sibthorpe and Mahwaring, and preached it as a gospel truth, that every thing the subject had was the king's; therefore, in the approaching election, said the writer, I would avoid such as are recommended by these sycophants, lest such damnable doctrines should crawl from the pulpit to the Parliament House, to the destruction of religion and the ruin of the state.

THE publications, which at this time abounded, shew, that the sword was then trembling in the scabbard, and ready to be drawn between the two parties. Barillon informs his master, Lewis the XIVth. that Montague had solicited his support in favour of Monmouth's pretensions; that Buckingham, though fallen into such great contempt as not to be thought of sufficient consequence to be nominated of the council, boasted that his connexions in the city could command the fate of government, and insinuated his own pretensions to the succession in right of his mother, who was descended from Edward the IVth. But that which above all manifests the distractions of the times, is an appeal from the country to the city, in which they are especially recommended to put themselves under the guidance and command of the duke of Monmouth, whom they might trust to lead them up against a French popish army, both on account



Aug. 1679. count of his quality, courage, and conduct; and that his life and fortune depended on the same bottom with theirs; that he would stand by the citizens, therefore they ought to stand by him, and to remember the rule, "That he who hath the worst title, makes the best king, as being constrained by a gracious government to make up what he wants in title; and that instead of God and my right, his motto would be, God and my people." The king and his party had the mortification to find, that this bold appeal was so well approved by the people, that when Harris, the publisher, was brought to his trial, at Guildhall, he was followed into court by multitudes: the jury gave no other verdict than guilty of selling a book; and the verdict was received by all present with loud and vehement shouts of applause.

King falls  
sick at Wind-  
sor.

WHILST the dispute between the two factions carried such a face of hostility, the king fell ill at Windsor; a circumstance which occasioned terror to all those who dreaded the commencement of civil discord, and raised the hopes and fears of both parties to so high a pitch, that, according to Sidney, there was no extremity of disorder to be imagined, that the nation might not have probably fallen into, in case his majesty had died, or even relapsed. The lords Halifax and Essex, who were as obnoxious to the resentment of the earl of Shaftesbury, as the exiled duke was, terrified with the prospect of the duke of Monmouth's being placed at the head of the nation, in opposition to the popish party, proposed to the king the sending immediately to Brussels for his brother. The duke's return, we are told by Sir John Reresby, had been determined by the king, at the instance of lord Eversham: the pro-

Duke of  
York sent  
for.

posal was therefore cheerfully accepted and executed with Ann. 1679. secrecy. The duke made his appearance before the adverse party had the least apprehension that he was sent for, and the king's recovery having been speedily effected by the Jesuits bark, it was agreed on between his majesty and his confidants, Essex, Halifax, and Sunderland, that it should pass for a journey of his own, and that to render the blind more effectual, both his majesty and the triumvirate should receive him with tokens of surprise. This they performed so well, that Sir William Temple, who flattered himself with being the first in the king's confidence, and that the present favour of Halifax and Essex was owing to his recommendation, fell into the snare, and in his audience with the duke, in which he gave him an account of the duke of Monmouth and the earl of Shaftesbury's intrigues against him, in which he declared his devotion to the interests of the crown, and the succession in all cases, but the bringing an army of foreigners into the country, he endeavoured to remove the great prejudices which, on account of their former opposition, his royal highness had conceived against Essex and Halifax, by assuring him that they had quarrelled with the duke of Monmouth and lord Shaftesbury, and that they would never fall into any measures against him.

To what disappointment is self-importance subjected through all the walks of human life! Sir William Temple had seen the mortification to unravel the whole secret, and that not only such an important resolution was taken without concerting the matter with him, but that he had been suffered to expose his political insignificance to the duke, by making court for the lords Essex and Halifax, and that his royal highness had received prejudices in

behaviour

his



Ann. 1679. his disfavour, by the being told that the constitution of the new council originated with him. Full of chagrin and vexation, Sir William Temple retired to his country-seat, and left the triumvirate in the full possession, as they imagined, of the king's confidence; who, to arm themselves against the duke of Monmouth, united their interests with those of the duke of York, and on its being necessary that his royal highness should return to exile, prevailed with the king to send away his favourite son in disgrace.

These bold measures, agreeable to what is often experienced, did not produce the opposition which might have been reasonably expected. The only movement made by the party was an unsuccessful attempt to obtain of the lord mayor, the doubling the city guards; and the duke of Monmouth, though persuaded to resistance by his friends, had not the courage to disobey the king's commands, and even solicited and obtained a pardon for past offences. This timidity of conduct produced a kind of temporary coldness in the party: he was suffered to retire in a private manner, without the countenance of any man of consequence, except the lord Brandon Gerrard, whilst the duke's friends, among which were a great number of the nobility, attended him from the palace to his own lodgings, and from his lodgings to the yacht which conveyed him to the continent.

The king, who had been made to believe, that a rebellion and a rising in the city would be the consequence of the duke's recall, was discouraged by the present pacific appearance, as to declare to the council, that upon many considerations which he could not then communicate, he found it necessary to make a longer prorogation of the Parliament than he had  
 and 5 intended;

intended; that he had considered all the consequences so far as to be absolutely determined on the measure, and not to hear any thing against it; and that he should not suffer this assembly to meet for the space of one twelvemonth. The majority of the council expressed an equal disapprobation at the unpopular measure of proroguing this Parliament, as they had done on the dissolution of the last; and several members, agreeable to the duties of their office, rose up to give reasons for their dissatisfaction, but they were obliged to desist. His majesty continued positive to admit of no opposition; and in thus signifying that it was obedience, not advice, which he expected, he verified the opinion of the public on a political manœuvre, which was much vaunted by Sir William Temple, and derided by others, as a flimsy deceit to amuse the populace.

It was soon discovered what were the considerations which had engaged his majesty to disgust his new Parliament by so long a prorogation, before the temper and disposition of this assembly could be positively known. The public were informed by the Gazette, that the duke of York had asked leave to reside in his majesty's dominions, rather than in those of any other prince; and his royal highness, attended by his family, soon after made his second appearance at Whitehall in his way to Edinburgh. The earl of Shaftesbury, who had opposed the duke's residence in Scotland, was dismissed from the office of president of the council; the Parliament, which had been prorogued from the 17th to the 30th of October, was again prorogued; an expedient was fallen upon to engage the artillery company to send a solemn invitation to the duke, whom some years before they had chosen for their captain, to honour them with his company to dinner; and though his royal highness was buffeted with the cry of, "No Pope, no Papist," from the mob, yet the ex-

Duke of  
York returns  
and goes to  
Scotland.



April 1679. pedient served as a puff for the Gazette, and an example for the Scotch nobility and gentry to follow.

THE considerable triumph which the Papists had gained by the acquittal of Sir George Wakeman, with the sarcastic observations of the church faction, who could now discover and point out all the striking absurdities which are to be seen in the evidences of the witnesses, had so weakened that general credit which was first given to the popish plot, that the belief, or not belief, of this extraordinary phenomenon, was in a manner become the test of party; and it would have been very difficult to have supported, in any degree, its probability, had it not been for the timidity of Sir George Wakeman, who took the advantage of his liberty to fly the kingdom, the voluntary evidence of one Serjeant, a secular priest, who averred that Gavan had held a conversation opposite to his dying protestations, and the mean and scandalous practices of the Papists, with the countenance of the court, to revenge themselves on their persecutors, by fixing a counter plot on the Presbyterians, and the leaders of the opposition.

Burnet, fol.  
edit. p. 466.

Meal-the  
plot.

DURING the duke of York's abode in England, one Dangerfield, a subtle, dextrous, well-favoured villain, who had gone through every shape and practice of roguery, who had been burnt in the hand, transported, whipped, pilloried, fined, outlawed, convicted of coining, and put in jail for debt, during his imprisonment had contracted an acquaintance, and entered into an intrigue with Mrs. Cellier, a midwife, and a Papist; this woman, who had keenness of parts equal to Dangerfield, and an equal inclination to villany, by the assistance of the countess of Powis, to whom she had magnified the wit of her paramour, obtained his enlargement; after which he

was

was employed by the countess and the midwife as a spy, or rather as a decoy, to draw the exclusionists into some imprudent measures, which he was afterwards to betray to the ministry. Dangerfeild, by the favour of the countess, was enabled to put on the appearance of a gentleman; he insinuated himself by his wit, into all companies, mixed with the most flaming zealots of the town, and studied to gather circumstances which he could shape into a plot: after some time he acquainted his employers, that the fanatics were hatching a rebellion; that there was to be a sudden rising in arms, and that himself was to have a commission, and be a captain; that new counsellors of state were appointed, and a model of an army made; that if he might find credit, he would discover the conspiracy to the king, be a spy on the conspirators, and, in time, get so far into their counsels, as to know where their treasonable papers lay, and obtain from them a commission, which, when produced, would detect their villainies.

DANGERFEILD, through the means of the earl of Peterborough, was carried to the duke of York; from the duke of York he was referred to the king, by whom, according to some authors, he was treated with a surprising condescension; had a weekly allowance of money, and the countenance of several of the duke's friends: but as he had not produced any evidence on which the ministry could found prosecutions, the court grew weary of the expence of entertaining him; and he was told by secretary Coventry, that his important discoveries lay only in his own talk, and that he had already received more than he deserved. On this severe reprimand, the informer demanded a search warrant; but on the king's being told that this could not be legally granted, unless there was oath to ground a search, or circumstances of pregnant suspicion, by the advice of Mrs. Cellier, a warrant was obtained to search for smuggled goods; and Dangerfeild



Aug. 1679. Having a correspondence with one colonel Mansel, he made up a bundle of seditious letters, and laid them behind the bed in the chamber where he slept. These papers Dangerfield brought to the secretary: the noise of a hellish conspiracy was instantly trumpeted about town, when the triumph of the informer and his employers, were on a sudden clouded on an accusation made against Dangerfield, by Doyly, an officer of the mint, for false coining: this was followed by a complaint from colonel Mansel, of the abuse which had been put on him; and the forgery and false accusation was plainly proved by the testimony of the constables and officers who were employed to make the search. Mrs. Cellier placing herself in the way whilst Dangerfield was carried to and from council, in order to be examined, encouraged her paramour to act the part of a man, and promised him that he should meet with support; but her exhortations and promises had little effect. Dangerfield had not been long in Newgate before he confessed his roguery: on a strict search, the scheme of the whole fiction was found in papers, which had been entrusted to the charge of Mrs. Cellier; and the delinquent, in order to avoid the punishment due to his multiplied offences, turned informer against the Papists, and accused the lady Powis, the earl of Peterborough, and afterwards the duke of York, of high treason.

As it is not in the power of sophistry to vindicate the conduct of the court, on the countenance given to the impositions of such a tool as Dangerfield, the party-writers of these times have more than insinuated, that the conspiracy originated with the popular party; and that it was one of lord Shaftesbury's devices to fix on the king and the popish party, the odium of attempting, by the basest and the most unjustifiable means, the ruin of their opponents; but without calling in the evidence of Mrs.

Collier's intrigue with Dangerfield, whilst in prison and his enlargement from confinement by her means, is it credible that a nobleman of equal political abilities to the earl of Shaftesbury, should trust such an important secret to so a low villain as Dangerfield? or that so a low villain would not gladly have purchased these emoluments he sought from the court, by disconcerting practices which would have brought the patriots into disgrace, if not into punishment?

The earl of Essex, who really loved his country, and the liberties of the constitution, beyond any scheme of private ambition, and had concurred in the measures of Charles on the false imagination, that he had fathomed his majesty's politics, and was in his entire confidence, now began to perceive his mistake. He found that the king and duke had secrets and intentions which they did not think fit to communicate; and that it was not likely that any measures would be taken for satisfying the well-grounded discontents of the public, or uniting the divided kingdom. The earl of Essex had, in a very spirited manner, remonstrated by letter to the king against his design of increasing the army, and had treated with contempt several informations given in by the duke of York's party, with the intention to foment jealousies, and blow the flame of contention. The management of the meal-tub plot, and the secrecy observed in this affair, filled him with a suspicion and resentment which was much aggravated by the design then on foot, to bring the duke of York again into the management of affairs: this occasioned him to press, with vehemence, for the immediate assembling the Parliament; and on the king's peremptory refusal, to leave the treasury and to retire from councils, in which no honest man could long maintain an influence.

Earl of Essex  
resigns his  
employment.

THE



Ann. 1679.

Temple.  
Burnet.

THE earl of Hallifax, who with others had aspired to the government of the king's councils, grew so disgusted on the finding himself the dupe of more trusted confidants, that he fell sick with vexation, took a religious qualm, which lasted for the space of a fortnight, and after expostulating in strong terms on the king's forgetting his promise to call a Parliament, he followed Sir William Temple's example, and retired to his seat in the North.

THAT confidence which the king, for very important reasons, had on the dismissal of the earl of Danby, alone confined to the earl of Sunderland and the dutchess of Portsmouth, was now given to Lawrence Hyde, the younger son of the earl of Clarendon, who succeeded the earl of Essex in the treasury, and Mr. Sidney Godolphin, who was appointed of the privy-council. Mr. Hyde who had adopted all his father's high-church principles, and aspired to be the head of that faction, was so well fitted to rise in a court, that the natural resentment of a son for the hard and ungrateful treatment of an indulgent parent, never once discovered itself in his countenance, conduct, or manner; and as this was directly opposite to what appeared in the less refined carriage of his brother, the lord Clarendon, it served to ingratiate him with the king, and paved the way for the favour which he now shared with Godolphin, who was bred a page of honour, and who, according to lord chief justice North, had abilities so well-suited to flourish in a court-soil, that his preferment was in a manner certain, from the moment he got within its circle.

ON the addition of these new men in the council, and the appointment of lord Robarts, now created earl of Radnor, who from a malecontent was become a convert to the measures of government,

vernment, to the place of president, the king thought proper Ann. 1680. to prorogue the Parliament to a farther period, and to assure those members whose attendance was, by the rules of the Houses on these occasions, required, that though, considering the dangers which threatened the Dutch, he thought fit to appoint a day for their meeting again in April; yet the distractions and jealousies at home were of such a nature, and so heightened and improved by the malice and industry of bad men, that a longer interval of Parliament would be absolutely necessary for the composing and quieting the minds of the public; and that therefore at the said meeting in April, there should be a farther prorogation, unless the condition of the allies did then require their immediate attendance. This declaration, that the king intended entirely to discard the counsels of his Parliament, in the plan for quieting the jealousies, or rather subduing the turbulence of the people, was, in two days after, followed by a declaration in council, that his majesty had sent for his royal highness, not having found such an effect from his absence as should incline him to keep him longer away; and, moreover, that some questions had been started of such a nature, and of so great a concern to the duke, as made it reasonable that he should be present at the next sessions of Parliament.

In this situation of affairs, the remaining popular members of the council did not think it proper to give any longer countenance to measures which, in every respect, they regarded as ruinous to the true interests of the king, and the welfare of the nation. The lords Russel, Cavendish, Salisbury, Sir Henry Cappel, and Mr. Powle, went in a body to his majesty, and desired him to excuse their further attendance: to this request, his majesty easily assented; as also to the resignation of Sir William Jones, the attorney-general, who, from reasons of a similar nature,

Popular members leave the council.



Ann. 1680. nature, did not think it agreeable to reputation or principle, to continue in the service of the crown: and thus the king having very effectually rid himself of all those members in his council whose conduct he could not influence, and manifested to the public that he had never suffered his will or his judgment, either to be ruled by the opinion of his Parliament, or the unmannerly opposition of men who were only called together for the purpose of serving his designs, by playing on their passions and prejudices, his majesty's true friends, according to Mr. North, began to take heart; they perceived that he had served his own turn on the faction, and, thus encouraged by his dexterity and his steadiness, the royalist and high-churchman united their force and prepared to resist, at the expence of every popular privilege, the pretensions of the malcontents.

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CHAP.

**C H A P. IV.**  
*Several of the nobility petition for a parliament. — Proclamation against the right of petitioning. — Addresses of abhorrence. — Intrigue to fix a conspiracy on the malecontents. — The duke of Monmouth's progress in the West. — The duke of York indicted as a popish recusant. — Insurrection in Scotland. — Conspiracy against the duke of Buckingham. — Charles's deep dissimulation. — Commons vindicate the right of petitioning. — Commons proceed on the bill of exclusion. — Bill of exclusion stung out of the Upper House. — Commons remonstrate on the king's government. — Condemnation and execution of the lord Stafford. — Debates in the committee for securing the nation against Popery and arbitrary power. — Commons address the king on the bill of exclusion. — Policy of the prince of Orange. — Commons irritated with the king's answer to their address. — Parliament prorogued. — Acts passed.*

**I**T is from the recall of the duke of York, without the current advice either of the Parliament or even of the king's council, that we may date that perfect union between the cavaliers and the high-church party, in the interests of the prerogative and the duke's succession, which filled the king with hopes of recovering, by the strength and obstinacy of his partizans, that authority which he once enjoyed from the confidence and affections of the people. The measures now taken were a kind of declaration of war against the exclusionists, and all the friends to limited power: it was regarded in this light: and as a preparation for defence, the duke of Monmouth, by the advice of the party, and under the protection of the laws of the country, which does not allow the sovereign to inflict

Ann. 1680.



Ann. 1620. the punishment of banishment on the subject on mere will and pleasure, returned without a licence; and though, either out of modesty or accident, he did not make his entry into London till late at night, the news of his arrival spread in an instant from one end of the city to the other; the bells rung, the streets were illuminated with bonfires, and the acclamations of the people were loud, and carried the appearance of being unanimous.

Several of  
the nobility  
petition for a  
Parliament.

THE mortification which the court sustained at this instance of the duke of Monmouth's popularity was followed by another of a more important and a more alarming nature. The earls of Kent, Huntingdon, Bedford, Clare, Stamford, and Shaftesbury, with the lords Say and Seal, Eure, North and Gray, Chandos, Gray, Howard, Herbert, Rockingham, Townshend, Hollis, and Delamere, joined in a petition to his majesty, that he would act by the advice of his great council of Parliament in the present alarming crisis of affairs, when the safety of his royal person, the Protestant religion, and the civil government of the kingdoms were in imminent danger, and offering it as their humble advice, as well as earnest prayer, that there might be a session at the time appointed; and that his majesty would be graciously pleased to give public notice and assurance thereof, that the minds of the subject might be quieted, and their fears removed. The petitioners confining themselves within the limits of the act of the thirteenth of the present reign, delivered their petition by ten of the number of the petitioners: they were introduced into the royal presence by no less considerable a person than prince Rupert; and though these noblemen, from their characters and consequences, were received with some degree of civility, yet an intimation was given, that his majesty was more solicitous for the good and peace of the nation than his advisers; and an attempt was made to intimidate the lord mayor and the court

of aldermen from countenancing, in the citizens, so pernicious an example. Ann. 1686.

Sir Robert Clayton, the mayor, after protesting that he knew of no course he could legally take to suppress the inconvenience his majesty complained of, humbly desired that he would be pleased to direct what was to be done by himself and his brethren: on this the recorder of the city, Sir George Jeffrys, moved, that a proclamation might be set forth, prohibiting any such petition, with a command to all the peace officers to punish every one who should act contrary. This motion of the recorder met with approbation; but the lord chief justice North, in order to soften or rather conceal the illegality which must appear in the face of such a proclamation, farther advised, that it should only take notice of certain ill people, who, on the specious pretence of petitioning, went about in a seditious manner, gathering hands to certain papers, &c. and then forbid all such tumultuous and seditious proceedings, and enjoin all magistrates to punish such offenders. This refinement of North's was immediately adopted; but it was so little understood by Sir Creswell Levinz, the attorney-general, that he declined the putting it in execution, and desired his lordship would draw up the proclamation. This request being against rule, was denied, and the attorney, with the assistance of the lord-chief-justice's private advice, produced the required proclamation; and this curious composition, which admitted the right to petition, but prohibited a subscription to petitions, and the means to procure them that authority which is derived from number as well as argument, and which declared that a legal act could be rendered punishable by the manner of transacting it, at the pleasure of the privy-council, according to Mr. North, gave such spirits and encouragement to the loyal party, that, taking a new life, they strongly exerted themselves in opposition to the whole design;

Proclamation  
against the  
right of pe-  
titioning.



Ann. 1680. design; and, without troubling themselves with nice distinctions, they laid on with the king's pleasure, signified by his proclamation, that he would have no such petitions come to him, and so without farther distinctions or ceremony, withstood the agents for the petitions, in the face of the people, and in most places drove them and their ware quite away; and out of the lines of a factious guard, they scarce durst shew their heads; and the practices of forty-one, with many epithets, were bestowed upon them. I give Mr. North's own words, because his authority is sufficient to ascertain the principles and the conduct of the faction; but whatever interruption they were capable of giving to the designs on foot, it is plain the petitioners were not intimidated, either by the proclamation or the violences of the loyal party; and this curious piece of state-policy had no sooner made its appearance in the Gazette, than an answer was published which detected its fallacy, and proved by the thirteenth of Charles the Second, on compliance with the limitations therein prescribed, that the subjects had a right to petition even for an alteration of what was established by law, and much more for what was so agreeable to law as the meeting of the Parliament.

A petition for the meeting of the Parliament was presented by Sir Gilbert Gerrard and nine other gentlemen, and though Sir Gilbert was particularly reproved for disgracing the loyalty of his ancestor, by appearing in such a business, and his majesty asserted, that he was himself the only judge of what was fit to be done, yet the reception did not deter others from following the example. The counties of Wilts, Essex, and Berks, sent up petitions of the like nature, by gentlemen of the first fashion in the counties, among whom was colonel Mildmay, who was indirectly reproached with the benefit he had received by that act of oblivion, which the king from necessity

cessity had passed; and a tradesman from Taunton having presented a petition from that town, he was asked, how he dared to do it? On which the tradesman briskly replied, "Sir, my name is Dare:" for this pleasantry, the petitioner was selected to be made an example of; and on a charge of speaking seditious words, was taken into custody, carried before the council, and fined 500l.

Ann. 1680.

THOUGH the spirit of opposition ran high among the citizens of London, yet the court had the lord mayor, and the majority of the aldermen and common-council, at their devotion. On the first public occasion which called together these sages of the city, notice was taken of the ill practices of many disaffected persons, who endeavoured to procure hands about the sitting of Parliament; and after a long debate, it was declared to be a thing not proper to be meddled with, and a resolution passed, that the court would not suffer any such petition to be presented in their name. Not satisfied with this triumph, the king commanded the lord mayor and aldermen to attend him at Whitehall; and after declaring his dislike of their entering into any debates, which it was not proper for them to meddle with, and which, he believed, was occasioned by some ill-affected persons from without, who misinformed those who might otherwise mean well, and giving his particular thanks to those meritorious individuals who endeavoured to prevent such attempts, he assured these loyal magistrates, that he should be always ready to give his city of London proofs of his affection and kindness. As in these days the court enjoyed an exclusive right in that species of deception on the public, called puffing; a deception which, in modern times, is the general practice of men of all ranks, from the shoe-black to the sovereign; this transaction, in which prerogative and princely indulgence is so happily blended,

was:



Ann. 1680.

was properly set forth in the Gazette, the only channel of public intelligence, and served, as an useful hint, to all those minor tools of power, which are found to abound among men, who, from the dregs of the people, rise into some small consequence, by the virtue of those popular governments which take place in the corporation towns. The mayor and aldermen of Bridgewater, and the justices at the several quarter-sessions of Oxford, Salisbury, and Canterbury, rejected the petitions; whilst those of Wells carried their zeal so far as to issue warrants against the promoters of it.

Addressees of  
abhorrence.

To make a proper use of this turn of the tide, in favour of the prerogative, the Scottish privy-council, in their letter of thanks for the favour they had received, and the happiness the kingdom had enjoyed by the presence of his royal highness, signified a just abhorrence of those seditious persons, and pernicious principles, which would lead the kingdoms back to those dreadful confusions, which grew up, by degrees, from tumultuary petitions for reformation, and Parliament, to a rebellion, that, in the last age, destroyed both, and which must do so still; since all who think that subjects should direct their king, design nothing, in effect, but to be kings themselves: and declared, that the Scottish council would, with their hearts, their lives, and fortunes, maintain his sacred majesty, and his royal succession in the ordinary degrees of succession, according to their unalterable right of blood, which he and they derived only from God Almighty, whom he represented.

By the means of the Gazette, the party in England were immediately made acquainted with the sentiments of their brethren in Scotland, who had gone all lengths in measures, evidently tending to slavery or rebellion; but though the magistracy of

of the city of London were encouraged to follow the example, by a condescending visit, from the king and the duke, to the lord mayor and Sir Jonathan Raymond, one of the sheriffs, no public mention is made of any address of abhorrence till some months after, when the grand jury of Essex, as also the justices of the said county, took occasion to disclaim, renounce, and express their detestation of the petition delivered in the name of the said county; and, from this period, wherever the church and court party prevailed, addresses were framed, containing expressions of the highest affection to the king, the most entire acquiescence in his wisdom, the most dutiful submission to his prerogative, the deepest abhorrence of those who endeavoured to encroach upon it, by prescribing to him any time for assembling the Parliament, and the offer of defending his sacred majesty, and the right of succession, with their lives and fortunes. Thus the different parties came to be distinguished into Petitioners and Abhorrrers, appellations which soon gave place to the well known epithets of Whig and Tory, the court party reproaching their antagonists with their affinity to the Conventiclers in Scotland, and the patriots the Cavaliers with a similarity of principle and conduct with the popish banditti in Ireland, to whom the appellation of Tory was affixed. The cities of Westminster and Norwich distinguished themselves on the side of the Abhorrrers: Berks, as well as Essex, had sent up a petition, which they now ordered to be expunged out of their records; and the earl of Chandos, one of the petitioning lords, acknowledged his mistake, and declared his abhorrence of his former error, as a necessary prelude to the obtaining leave to go in the character of ambassador to Turkey.

To give yet farther animation to the zeal of the faction, a story was fabricated between Sir Robert Peyton, one Gadbury, a pretender to astrology, and the busy Mrs. Celler, who were both

Intrigue to fix a conspiracy on the mal-contents.



Ann. 1680. both of them at this time in Newgate, on the part they had acted with Dangerfeld \*, to fix on the opposition the design of setting up a commonwealth, an attempt which, on account of the distractions and confusions of the late calamitous times, and the arts which had been used to aggravate them in the minds of the people, was yet more hateful to the bulk of the nation than the re-establishment of Popery. As Sir Robert Peyton had distinguished himself for his forwardness on the popular side, and had twice been elected to a seat in Parliament through the interest of the party, care was taken to preserve his reputation, by resting the evidence on the depositions of Gadbury and Cellier, who were brought from Newgate for the purpose, and charged Sir Robert with a design to levy war against the king: and though no circumstance could be gathered, either from the deposition of the witnesses, or the confession of Peyton, to authorise any farther prosecution, the whole story was circumstantially detailed in the Gazette.

While these mean arts were practised to blast the reputation of the adverse faction, great care was taken to humour the prejudices of the Tories, by the appearance of a very uncommon zeal against Popery. A Proclamation upon proclamation was issued against the Papists: the lists, which had been returned into the House of Commons of these Recusants, were given to the judges, when preparing to go the circuits, with instructions to make presentments of all the persons therein contained, accompanied with an item, that they should give public discountenance to all the petitioners, and an equal encouragement to all the anti-petitioners. Several priests were at this time put to death; and all

\* Gadbury was the person who had brought Mrs. Cellier and Dangerfeld acquainted, and now acted the same friendly part by Sir Robert Peyton.

these particulars, with the king's declaration in council, that it was his intention to have the laws against popish recusants duly and effectually executed, were related to the people by the same convenient channel of intelligence, the Gazette; and, no doubt, were convincing proofs to all those whose hearts were not hardened by a rebellious principle, that his majesty was entirely deserving of the confidence of his people, and of those high professions of duty and affection with which he was complimented by the Abhorers.

To counter-act the intrigues and policy of the court, the story of the black-box was propagated by the Exclusionists; and the duke of Monmouth, by the advice of lord Shaftesbury, set out on a progress through the western parts of the kingdom, where he was treated by the Whig gentry and nobility with all the respect paid to monarchs. According to Burnet, the parade of this progress, and the success which attended it, alarmed several, who would otherwise have been neuter, with the apprehension that a civil war was intended, and occasioned them to support the interest of the duke of York, who prevailed with the king to set forth a paper, in which his majesty called God to witness to the declaration which he made, on the word of a king, and the faith of a Christian, that there never was any marriage, or contract of marriage, had, or made, between him and Mrs. Walters, or between him and any other woman whatsoever, his royal consort queen Catherine only excepted; and in which he strictly commanded all his subjects not to utter, or publish any thing to the contrary, on pain of being proceeded against according to the utmost severity and rigour of the law.

The duke of Monmouth's progress in the West.

As the meeting of a Parliament, which is the only con-



Ann. 1690.-stitutional check on the corruption of the judges, depended on the king's will, it was of great consequence to either party to have an interest in the nomination of the juries, and, consequently, in the sheriffs of London, who, by their office, return them. It had been customary for the mayor to nominate one sheriff by drinking to him, and the common-hall had usually confirmed the choice. Sir Robert Clayton, the mayor, who was at this time entirely in the influence of the court, nominating one who was not acceptable to the popular party, the common-hall rejected him. Bethel and Cornish, two Independents, were chosen by a majority of voices; and, in spite of all remonstrances and opposition for Hockenhall, who was nominated by the mayor, and put up three times successively, and afterwards three other persons, the citizens persisted in their choice, and the court was obliged to acquiesce, though the king had so publicly interested himself in the affair, as to sup with Sir Simon Lewis, one of the sheriffs, to countenance his corps; and prosecuted one Osborne, a draper, for a riot, only for taking upon him to check the sheriff for some unwarrantable proceedings. As a farther encouragement to the citizens on the stand they had made against the influence, and even violence of the city, the earl of Shaftesbury appeared in Westminster Hall, attended by the lords Huntington, Grey of Wark, Russel, Cavendish, Brandon, Sir Edward Hungerford, Sir Henry Caverley, Sir William Cooper, Sir Scroop How, Thomas Thynne, Forrester, Wharton, and John Trenchard, Esqrs. and presented to the grand jury reasons for indicting the duke of York as a popish recusant. While the jury were deliberating on this puzzling incident, calculated to disgrace them with the court, or expose them to the public, they were delivered from their perplexity by an irregular dismissal; a circumstance which was undoubtedly expected by Shaftesbury, who had taken the measure with the

The duke of  
York indicted  
ed as a popish  
recusant.

the view of shewing to all his followers, that he was determined never to desert the cause, or to admit of any accommodation, or composition with the duke, and to engage them to a like devoted perseverance. Ann. 1680.

WHILST the party in England were thus prudently sheltering themselves under the authority of the laws, a small remnant of persecuted wretches, who had made their escape after the rout of Bothwell Bridge, consisting of the most desperate and the most enthusiastic of the party, afforded by their extravagances a compleat triumph to the enemy. With a degree of madness equal to what had infected Venner, in the beginning of this reign, one Cargill and Cameron, at the head of twenty-one of their followers, by a formal declaration which they fixed to the cross at Sanquhair, disowned Charles Stewart, who by his perjury and breach of covenant with God and his church, by his tyranny and breach of the very *leges regnandi*, in matters civil had fore-faulted the throne of Scotland, in which he rather tyrannized than reigned: they also disavowed the government of that professed Papist the duke of York; and further declared, that under the standard of Christ, they would make war against the tyrant, and all his abettors, as enemies to Christ, his cause, and covenant. As the number of these lunatics never exceeded one hundred horse, and forty foot, they were immediately over-powered by a party of the guards: Cameron and twenty-six of the most desperate of the band, were killed; a circumstance which afforded an opportunity for the military to expose their want of humanity, by adorning their triumphal entry into Edinburgh with the head and hands of Cameron, and the head of one Fowler, who had the command of the foot under him, whilst Haxton, who was deeply concerned in the murder of the archbishop of St. Andrews, was received

Insurrection  
in Scotland.



Ann. 1680. at one of the city gates by the common hangman, and set bare-headed on a carrion-horse, with his face towards the tail, his hands tied behind his back, and his legs under the horse's belly, in which equipage the hangman, bearing aloft Cameron's head on the top of an halbred, led him through the streets to the council-chamber, where the privy-council sat in state to receive him.

THIS mean insult, which was used by the covenanters to Montrose, when this hero of the royal party was like Haxton, caught in the toils of power, and which always carries more the appearance of party-virulence, and the insolence of prosperity, than the decent solemnity of even rigid justice, did not in the least subdue the spirit and the resolution of Haxton, who, on being examined upon several particulars concerning the archbishop's murder, refused to answer, on the legal plea, that he was not obliged to be his own accuser: he, however, declared, that the vengeance taken on Sharpe was no murder, and acknowledged Cargill's covenant, which consisted of seven articles; the first relative to matters of faith; the second, against prelacy; the third, against Popery; the fourth, against the king and his commissioner Lauderdale, for their abjuring the covenant, and for their lustful rage in the administration of power; the fifth declared for a commonwealth; and the two last turned on the power, duty, office, and abuse of a gospel ministry. At the time when Haxton displayed those powers of more than common fortitude, he was so low by reason of his wounds, that it was thought he would die in the question, if tortured; on which consideration he was, in a very summary way, condemned to have both his hands cut off, and then hanged: a sentence which he suffered with a constancy that amazed all people, carrying

the appearance of an enthusiastical rapture, and a total indifference to the sufferings of the body, at the same time that he was sufficiently sensible to ask, on the cutting off his hands, "Whether his feet were to be cut off next?" Cargill, and several others of these enthusiasts, suffered with a resolution which was so particular, that the duke of York, who was then returned to Scotland, sent to the remainder an offer of pardon, if they would say, "God bless the king:" but there was not one of the criminals who would accept the proffered grace on these conditions; and as they seemed to court the crown of martyrdom, the government put a stop to the prosecutions, and appointed them to be confined in a house of correction, and to be kept at hard labour; a line of conduct which would have carried the appearance of humanity and good sense, if it had been preserved to all the offenders, but was now a tacit acknowledgment that human fortitude, assisted by a strong conviction of the suffering in a good cause, is sufficient to triumph over the arm of power. Burnet says, that the atheists, or deists, of the time, made great use of the extraordinary resolution of these enthusiasts, to disparage the sufferings of the martyrs of the Christian church; but this is undeniable, says the bishop, that men who die maintaining any opinion, shew that they are firmly persuaded of its truth; so the martyrs of the first age, who died for asserting matters of fact, such as the resurrection of Christ, &c. shewed that they were well persuaded of the truth of what they asserted, and that is all the use which is to be made of this argument. To this observation of the bishop, we shall venture to add, that uprightness of intention and rectitude of heart, is alone praise-worthy in the sight of God; and that in all causes, whether founded on error or truth, he equally extends to his faithful servants those gracious influences, and that supernatural support which defeats the malicious purposes of power, and raises the



Ann. 1686. the intended sufferer to a state of mental exaltation beyond the reach of human vengeance.

THE close union of the popular and dissenting parties in England, with the adopting the solemn league and covenant, and the abolition of prelacy, as the principle of union among the Scotch malecontents, had, above all circumstances, alarmed the apprehensions of the hierarchical faction in England: they perceived it to be the interest of the crown to support a body of men who inculcated the principle of obedience to monarchs, as a principle of religion; and they trusted to the policy of the government for the security of their envied rights, rather than to the moderation of a party, whose enmity, arising from an opposition of interest and opinion, had been much heightened by severe and recent injuries. The art of governing by parties had been practised by all the English monarchs, from the period that the Christian church was divided into two distinct bodies of Papists and Protestants; and we have seen the antipathy of factions almost equally effect the same purposes of oppression in England, as the military force had effected in every other kingdom on the continent; but there are some prejudices of too stubborn a nature, and too generally adopted to be subdued by the common arts of courts. The aversion to pay taxes not authorised by the sanction of a Parliament, is a prejudice of this kind in England; and it was the impolitic attempt of raising what are called arbitrary impositions, which, by creating an almost universal defection in the people, proved the destruction of the first Charles: the fate of this monarch was too recent in the memory of the king and his ministers, to attempt a measure which, however it might succeed with the church, would, in all probability, shake the returning loyalty of the Cavaliers, who, in the midst of the animosities arising from

from a civil war, never carried their attachment so high as to allow such a prerogative to the deceased king. Ann. 1680.

The earl of Danby had left the exchequer so low, that Sir Robert Howard, the auditor, declared in the House of Commons, that there was not money sufficient for bread for the king's family: the pensioners were mutinous for their emoluments, the creditors for the payment of their debts, and the officers of state did not care to serve either his majesty or the public without wages. The conclusion of the French treaty, on which the king depended for a supply in the present exigence, had been some time suspended, by an uncertainty of the French king's councils, and at length on the farther encroachments of this monarch, who treating the king of England as a vassal, rather than an ally, would have tied him up from the making any alliances prejudicial to the interests of France, at the same time that he refused to be bound by similar obligations. The attention to consequences, on any point of money concern, we have not yet observed in the conduct of Charles; and, in all probability, he would have submitted to the terms prescribed, had not Sunderland, who began to entertain terrible apprehensions on the consequences which he might incur from the being made a party in the treaty, and Hyde, to whom the secret was now communicated, represented, in strong terms, the dangers which a minister must run who submitted to such an inequality, and at length, by refusing their concurrence, put a final period to the negociation.

According to Ferguson, the popular party had got intelligence of the treaty on foot between the two courts, and the duke of Buckingham had the merit of disappointing the king of any supplies from France, by repairing to Paris, and representing to the French ministers, that they would throw their money



Ann. 1680.

Conspiracy  
against the  
duke of  
Buckingham.

money away by giving it to the king, who was not in a situation to do them good or evil; on which we are informed by the same writer, that the disappointment was so severely felt by the royal brothers, that a conspiracy was formed against the life and the reputation of the duke of Buckingham: that one Le Mar was suborned by the earl of Danby and his family, to swear against the duke an act of a very criminal and disgraceful nature; and that Le Mar was allowed twenty pounds a week to keep him in prison, where he had been put by the duke of Buckingham's agent, in order to be indicted for the conspiracy; and what is very remarkable, Barillon, in the year 1679, writes to Lewis, that Buckingham does not dare attend the House of Lords in the prosecution of lord Danby, because Danby threatened him with a prosecution for crimes similar to the accusation mentioned above: a circumstance which shews that there had been some conversation between the king and Danby on this subject, or between Danby or some one or other of the court-party, which Barillon had been privy to; yet, after a great deal of pains had been taken, and the prosecution carried on with such malice, that even Sir George Jeffries was ashamed to be seen in it, the attorney-general was obliged to confess, that there had been undue practices used; and colonel Blood, whom Buckingham had formerly patronised, also Christian, a creature of lord Danby's, with Obrian and Curtis, were convicted of suborning Philemon Coddan and Samuel Ryther, two of the duke's servants, to bear false witness against their patron and master.

THE breaking of the treaty with France rendered the assembling the Parliament a measure absolutely necessary; and Charles and his ministers, in order, if possible, to acquire some degree of popularity, formed an alliance with Spain, offered a renewal of the alliances with Holland, and obliged the duke of York, who had taken very great, yet unavailing pains, to bring

the treaty with France to a happy conclusion, to leave the kingdom and return to Scotland. Ann. 1680.

While Charles was making ineffectual endeavours to regain that importance which he had lost on the continent, and that popularity which he had once enjoyed at home, Lewis was as busy in counteracting all his measures; he renewed his intrigues with the malecontents in England, and the Lovelstein party in Holland: he threatened and enjoeled the States by turns, and kept matters in such suspense, that the republic, who were equally afraid of trusting Charles or Lewis, gave civil answers to the proposals of both, and avoided entering into any particular engagements with either.

Though the party of abhorers had greatly outnumbered the petitioners, yet it was easy to see by the return of members to serve in this Parliament, that it was timidity alone which kept the majority from expressing their real sentiments on the situation of public affairs, and that the sense of the nation was greatly in favour of the duke of York's exclusion from the throne; and though the credit of the plot had been greatly shaken by the absurd conduct and the infamous character of the witnesses, yet a variety of circumstances, united to the folly and rashness of some individuals of the popish party, gave it from time to time a sufficient support to answer the purposes of the malecontents, by cherishing the fears, and keeping alive the passions of the people. The convicting Reading, of suborning Bodloe to soften his evidence, in respect to the five popish lords; and Price and Tasborough, for attempting to do the same by Dugdale, in favour of Harcourt, with the practices on Dangerfield, had undoubtedly great weight even with men of candor



Aug. 1680. and judgment; and these circumstances arising from timidity, resentment, or self-conviction, of errors of imprudence at least, were highly aggravated by an attempt on Mr. Arnold, a justice of peace in Monmouthshire, who had distinguished himself for his zeal against popish recusants, and who had been eminently instrumental in prosecuting Evans, for exercising the office of a priest. Arnold had a controversy with Herbert, another Monmouthshire justice, and the matter was to have been argued before the privy-council the very day on which he was assaulted by two men in disguise\*, whilst he was passing through the Bell Yard, in Fleet Street, and would undoubtedly have been murdered, had it not been for a pair of whalebone beddise, which defended him sufficiently to prevent the thrusts from being mortal. Giles, one of the assassins, was apprehended, and acknowledging the fact, was sentenced to pay a fine of five hundred pounds, and to stand in the pillory three times. This incident, which was unfortunately of a nature exactly similar to the murder of Sir Edmundsbury Godfrey, was followed by another, which produced an equal effect on the minds of the people. Bedloe fell ill of a violent fever, at Bristol, and being made sensible of his approaching end, he sent for Sir Francis North, who was then on the western circuit; and before this judge, the two sheriffs, a clergyman, and other company, did solemnly confirm every part of the evidence he had deposed against the Papists, and persisted in the same story till the moment of his death, which happened four days after, when his funeral was solemnized with much pomp and expence, at the charge of the inhabitants of Bristol.

\* Whilst giving the thrust, one of the assassins called out, "Now, you dog, pray for the soul of Evans."

The

THE approaching meeting of Parliament, which was fixed Aug. 1680. for the 21st of October, filled the minds of all parties with equal expectation: the exclusionists waited with impatience for the arrival of that moment when the king, by his necessities, would be obliged to conform to the dictates of a party, which he had hitherto treated with contempt, if not with insult; and his majesty was not without hopes, that policy would supply the place of strength, and that he should be able to turn the intrigues of the malecontents into snares for their destruction. In his speech, which is a master-piece of art and dissimulation, he set out with giving a popular turn to the several successive prorogations, which had kept the Parliament from assembling during the long space of eighteen months, by saying, that he had made a good use of them in the measures he had taken with Spain and Holland, for mutual defence and succour; and that these measures could not fail to attain the desired end, if divisions at home did not render the friendship of the English less desirable abroad, to prevent which he thought fit to renew all the assurances which could be desired, that nothing should be wanting on his part to give his Parliament the fullest satisfaction their hearts could wish, for the security of the Protestant religion, which he was fully resolved to maintain against all the conspiracies of its enemies, and to concur with them in any new remedies which might consist with the preserving the succession of the crown in its due and legal course of descent; and in order to do this, "I do recommend it to you, says he, to pursue the farther examination of the plot with a strict and an impartial enquiry; I do not think myself safe, nor you neither, till that matter be gone through with, and therefore it will be necessary that the lords in the Tower be brought to their speedy trial, that justice may be done."



Ann. 1680.

AFTER these assurances and encouragements, information was given to the Parliament of the state of Tangier (then besieged by the Turks), his majesty observed, that the expence of the fortress amounted to so large a sum, that, without the assistance of Parliament, it would be impossible for him to support it; but withal added, that he valued a perfect union at home above all the treasure in the world; and that nothing but such an union could restore the kingdom to that strength and vigour which it seemed to have lost, and raise it to that consideration which England used to have. "All Europe, continues his majesty, have their eyes on this assembly, and think their own happiness and misery, as well as our's, depend upon it: if we should be so unhappy as to fall into such a misunderstanding among ourselves, as should render our friendship unsafe to trust to, it will not be a matter of wonder if our neighbours take new resolutions, and perhaps such as may be fatal to us: let us, therefore, take care, that we do not gratify our enemies, and discourage our friends, by any unseasonable disputes: if any such do happen, the world will see it was no fault of mine, for I have done all which it was possible for me to do, to keep you in peace whilst I live, and to leave you so when I die." His majesty concluded his speech with a compliment to both Houses, signifying, that from such great prudence and good affections as they had, he had nothing to fear. The chancellor directed the Commons to proceed to the choice of a speaker, when William Williams, Esq; a warm exclusionist, was unanimously chosen; and in his speech of acknowledgment devoted his estate, health, and life, to the service of the House, declared that he was their own minister, their own only, their own entirely, and that he expected no boon but by their grace and favour, to depart as he came, when they should please to command him.

THE

THE earl of Halifax's disgust, with his fit of religion, had Ann. 1680.  
worn off long before the meeting of Parliament; he had resumed  
his place in the council. His hatred of his uncle, the earl of  
Shaftesbury, says Burnet, and his vanity in desiring to have his  
own notion preferred, sharpened him, at this time, to much in-  
decency in his whole deportment. It was in vain that the leading  
men of the anticourt party endeavoured to divert him from di-  
viding the opinions of the public, by an unsuccessful opposition  
to measures, which the majority of the Commons had determined  
to pursue; and what is very remarkable, and highly worth ob-  
servation is, that whilst the earl of Halifax, who again flattered  
himself that he had entirely obtained the king's confidence, assured  
his friends, that any limitations whatsoever, which should leave  
the title of king to the duke, though it should be little more  
than a mere title, might be obtained of his majesty; but that  
he was positive and fixed against the exclusion: the dutchess of  
Portsmouth, the lords Sunderland and Godolphin declared  
openly for the measure, and assured all people, with whom they  
conversed, that the king was resolved to settle matters with his  
Parliament on any terms; since the interest of England, and  
the affairs of Europe, made a league against France indispen-  
sably necessary at this time, which could not be done without a  
good understanding at home. It was also more privately hinted,  
and even promised to the duke of Monmouth, lord Shaftesbury,  
and lord Russell; that the king should grant all that the Parlia-  
ment would ask, provided they would put him in a condition of  
subsisting: and, to all appearance, there was so little good  
understanding between the two brothers, that, contrary to  
the advice of the majority of the council, Charles, without as-  
signing any reasons for his conduct, absolutely refused to grant a  
pardon, which the duke had demanded before he returned to  
exile, as a bar to an impeachment in Parliament: a conduct  
which, with the king's renewal of an application to the duke to  
return

Charles's  
deep dissimu-  
lation.

Dalrymple's  
Appendix.



Ann. 1666. return to the bosom of the English church, was so severely re-  
sented by his royal highness, that, through the means of Barillon,  
he applied to the king of France for protection; refused, for a  
long time, to return to Scotland; and even, when he yielded to  
the earnest persuasions of the king's friends in this point, he en-  
tered into thoughts of raising a party in the three kingdoms to  
support his rights. Agreeable to the policy of the French court,  
which had always in view the creating distractions in England,  
these intemperate sallies of a desperate man were encouraged by  
Lewis: he sent a trusty messenger to Scotland, with an assu-  
rance of his services to the duke of York; but, fortunately for  
his royal highness, the transports of passion had subsided, and  
moments of cooler reflection, or the caution of colonel Churchill,  
had enabled him to discern the immediate ruin which must attend  
so mad an attempt.

In this mysterious conduct of the king, which even made  
the duke and his friends regard their cause as desperate, it is no  
wonder that the leaders of the popular party fell into the snare of  
the deceiver. Agreeable to the encouragement given in the king's  
speech, for the prosecution of the plot, the first public business  
of both Houses was, to apply for a pardon to all such persons as  
should, within four months, come in, and give evidence of any  
treason, or conspiracy, &c. because, said the Commons in a  
separate address, the said plot has been carried on by potent and  
restless practices and machinations, during the late recesses of Par-  
liament, whereby several persons have been terrified and discour-  
aged from declaring their knowledge thereof. To this address the  
king returned answer, that he did intend to direct such a procla-  
mation; that he was resolved not only to prosecute the plot, but  
Popery also; and to take care of the Protestant religion, esta-  
blished by law: and added, that if the House would join with  
him,

him, and go calmly on in their debates, he did not doubt but to beat down Popery, and all which belonged to it. Ann. 1680.

THESE gracious expressions, which were at least calculated to please the party without doors, gave no interruption to the vigour with which the Commons were determined to proceed, in support of their friends, in the censure of those miscreants, who had distinguished themselves as the infamous tools of power; and, in the punishment of individuals, who by their irregular and violent opposition to constitutional, though uncourtly positions, had violated the privileges of the subject, and shewn their contempt for Parliaments. After having passed a resolution, *nemine contradicente*, to proceed effectually to suppress Popery, and prevent a Popish successor, they voted, that it is, and ever hath been the undoubted right of the subject, to petition the king for the calling and sitting of Parliaments, and redressing of grievances: that to traduce such petitioning as a violation of duty, and to represent it to his majesty as tumultuous and seditious, is to betray the liberty of the subject, and contribute to the design of subverting the ancient legal constitution of the kingdom. They appointed a committee to enquire after all such persons as had offended against these rights; and they presented an address of thanks to the king, in which due compliments were paid him, for the great judgment he had manifested in the opinion, that without a strict and impartial prosecution of the Popish plot, neither his person, nor his government, nor his Protestant subjects, could be safe. They then assured his majesty, that they should be always ready to preserve his person and government, and to support the Protestant religion, both at home and abroad; and they humbly besought him to esteem all persons whatsoever, who should otherwise represent them, as those who did design to divide between the king

Commons  
vindicate the  
right of peti-  
tioning.



Ann. 1680. king and his people, and to defeat the sitting and meeting of Parliament.

AFTER a strict examination of Dangerfield, in which Sir Robert Peyton was mentioned, a committee was appointed to sift his conduct to the bottom; and the report proving unfavourable, Sir Robert was expelled the House, taken into custody, brought on his knees, and, in this posture, received from the speaker a reprimand, in terms so exactly agreeable to truth, yet so coarsely severe, that, when the session was over, it produced a challenge, which ended in the confinement of Sir Robert Peyton to the Tower. Sir Francis Withens, one of the members for Westminster, and an active Abhorrer, with Sir Robert Cann, and Sir Robert Yeomans, for saying there was no Popish plot, but a Presbyterian plot, were expelled the House. Articles of impeachment were ordered to be preferred against Thompson, a clergyman, for having preached a sermon full of party virulence, and bitter invective\*. Mr. Herbert was reprimanded on his knees, for having taken depositions against his neighbour justice, Mr. Arnold, and sent them up to the council-board in the nature of a charge, without any offence committed by Mr. Arnold, but the having been active in soliciting hands to a petition for the sitting of Parliament; and Sir George Jeffries, the recorder of London, whose insolence had led him to threaten the citizens of London with the loss of their charter, and other immunities, in case they should petition, was not only expelled the House, but the king was addressed to remove him from the chief justiceship of Chester, and all other his offices and employments. The qualities of timidity, servility, and insolence, are commonly inseparable; the court had the mortification to find this

\* For which performance he was rewarded by the court with the deanery of Bristol.

vetified in a variety of instances. Sir Francis Withens acknowledged, that he had acted against law, and only because he thought it would please the king, and had humbly requested forgiveness; and Sir George Jeffries, terrified with the threat of an impeachment, in a manner compelled the king, by continual importunity, to grant him permission to resign the recordership, and thus make room for the promotion of Sir George Treby, in whom the popular party had an entire confidence; a circumstance, which, according to Mr. North, was every way displeasing to the king, as he regarded the boisterous, domineering deportment of Sir George Jeffries, to be an excellent qualification for his service; in over-awing the insolence of the citizens, and of little use any where else; and which occasioned his majesty to say, that Sir George was not Parliament proof, and on this reason never to have any real value for him.

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Sir Francis North, the framer and adviser of that proclamation, which had encouraged the party to unwarrantable acts of violence against the petitioners, only escaped censure from the unwary warmth of the House, who, in the first transports of their resentment, had voted, that the evidence against him was sufficient grounds for an impeachment, and had appointed a select committee to draw up articles on the charge; but it soon becoming manifest, that there was not sufficient grounds for the fabric they were directed to rear, it was contrived that they should make no report. Sir Thomas Jones, one of the puisne judges of the King's-bench, for rejecting petitions, and for having given his sanction to the several trespasses of the Bench, where he had his seat; and Sir Richard Weston, one of the barons of the Exchequer, for having, in a pragmatical charge, which he had delivered at the Kingston assizes, declared the king to be the sole representative, for having condemned all the Reformers as introducers of novelties, for having fallen, with great severity on



Ann. 1683.

the Presbyterians, and for having extended his abuse even to the Parliament, fell under the censure of a vote of impeachment. Sir William Scroggs, the lord chief justice of the King's bench, who, according to Mr. North, was of a very mean extract, and had wrought himself into preferment by the merits of debauched manners and true libertine principles, had added to the offence of decrying the plot the frustrating the indictment of the duke of York, by an irregular discharge of the grand jury, and had set very heavy fines on those popular writers whose publications were termed libels. An impeachment was not only voted against Scroggs, but eight several articles, on the grounds of these offences, were prepared, agreed to, and sent up to the Lords; and Mr. Seymour, the late speaker of the House of Commons, and now treasurer of the navy, an anti-exclusionist, was called in question for crimes, misdemeanors, and offences which, in all probability, but for this circumstance, would have been forgotten, as they had been long overlooked.

With the proceedings against these capital offenders great numbers of the abhorers were seized by order of the Commons, and committed to custody; a severity which gave those who were the most inveterate enemies both to popular privileges and legal rights, and who never affected a concern for either, but when it answered a particular purpose, the opportunity of making very severe and pertinent reflections, and to retort on the patriots, that themselves practised that tyranny which they pretended did exist in the principles and conduct of the court-faction; and that the liberty of the subject, which had been so carefully guarded by the great charter, and by the late law of Habeas Corpus, was every day violated by their arbitrary and capricious commitments. Encouraged by these observations, and the murmurs of the people, one Stowel, of Exeter, an ab-

horror, refused to obey the serjeant at arms, stood on his defence, and by his obstinacy put an end to the practice; for the Commons, neither having the law or the voice of the people on their side, were afraid to proceed, and to avoid the disgrace of acknowledging themselves overcome, they inserted in their votes that Stowel was indisposed, and that a month's time was allowed him for the recovery of his health. Ann. 1680.

A VERY irregular method had been taken to suppress the evidence of Dowdal, a priest, who was supposed to be in the whole secret of the popish plot, by an illegal confinement of Norris, a messenger, who was sent by the zealous prosecutors of the plot to bring him over from France; and as Dowdal very opportunely died during the detainment, it naturally incurred the suspicion of a violent death: the Commons, however, went no farther on this occasion than to vote that the imprisonment of Peter Norris, at Dover, was illegal; and that the proceedings of Sir Lionel Jenkins, directing his imprisonment, were illegal and arbitrary, and an obstruction to the evidence for the popish plot.

DARE and others, who were under confinement on the zeal they had manifested for the cause espoused by the Parliament, poured in their petitions for relief: the Commons interposed with an address in their favour; and Dangerfield, who had no other merit to plead but the having been the instrument of exposing the mean intrigues of the court-party, stood so high in the favour of the Commons, that they not only obtained a pardon from the king, for his many crimes and misdemeanors, but they solicited his majesty to provide for him out of his revenue. Jennison, Dugdale, Turberville, Smith, La Faria, who were all of the Romish faith, yet had turned informers against their



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brethren, were called before the House, their testimonies were favourably received, pensions and pardons were asked for them, and Dr. Tonge was recommended for the first considerable church preferment which should fall vacant.

THOUGH credulity was, in all probability, the motive which influenced the majority of the House in the zeal and violence with which they prosecuted the plot, yet it was undoubtedly motives of policy that alone actuated the earl of Shaftesbury, and those who were in the secrets of the party, in the most exceptionable parts of their conduct: the multitude are incapable of pursuing any point on reasons of propriety, convenience, and public utility, and it is only by agitating their passions that they can be brought to action. The Commons, when they renewed the former vote of the House, which affirmed the reality of the popish plot, asserted, that notwithstanding the discovery, the plot still subsisted, and in less than a week after the commencement of the session, a motion was made for bringing in an exclusion bill: a committee was appointed for the purpose, and in two days after the bill was read and committed. The debates on the bill were carried on with all that warmth and violence which might be expected from the importance of the subject; it differed in nothing from the former but in two articles, which ordained it to be read twice a year in all the churches of the kingdom, and which incapacitated all those from receiving a pardon but by act of Parliament, who should support the duke's title. The bill was defended by Sir William Jones, lord Ruffel, Sir Francis Winnington, Sir Henry Capel, Treby, Hamden, Montague, and colonel Titus; and was opposed by Sir Lionel Jenkins, secretary of state, Sir John Ernley, chancellor of the exchequer, Hyde, Seymour, and Sir William Temple.

Commons  
proceed on  
the bill of  
exclusion.

THE

THE exclusionists pleaded, that in every government there was some where an authority absolute and supreme; and that the liberty of a constitution was so far from diminishing this absolute power, that it seemed rather to add force to it, and to give it greater influence over the people, because the more members of the state concur in any legislative decision, and the more free their voice, the less likelihood there is that any opposition will be made to those measures which receive the final sanction of the legislature: that in England the legislative power was lodged in King, Lords, and Commons, which comprehended every order of the community, and there was no pretence for exempting any circumstance of the government, not even the succession of the crown, from so full and decisive a jurisdiction: that even express declarations had, in this particular, been made of parliamentary authority, instances had occurred where it had been exerted, and though prudential reasons might justly be alledged why such innovations should not be attempted but on extraordinary occasions, the power and right were for ever vested in the community: but if any occasion could be deemed extraordinary, if any emergence could require unusual expedients, it was the present, when the heir to the crown had renounced the religion of the state, and had zealously embraced a faith totally hostile and incompatible with its safety: that a prince of such communion could never put their trust in a people so prejudiced against him; and the people must be equally diffident of such a prince: that foreign and destructive alliances would seem to the one to be the only protection of his throne, whilst perpetual jealousy, opposition, faction, and even insurrection, would be employed by the other as the sole securities for their liberties and religion: that though theological tenets, when set in opposition to passions, have often small influence on mankind in general, still less on princes, yet when they become symbols of faction, and marks of party-distinctions, they con-

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cur with one of the strongest passions in the human frame, and are then capable of carrying men to the greatest extremities; yet notwithstanding the milder disposition and better judgment of the king, the influence of the duke had often engaged the nation in measures totally destructive of their foreign interests and honour: that the more the absurdity and incredibility of the popish plot were insisted on, the stronger reason it afforded for the exclusion of the duke of York, since the universal belief of it discovered the extreme antipathy of the nation to his religion, and the utter impossibility of ever bringing them to acquiesce peaceably under a popish sovereign: that a sovereign thus hated must seek for security by desperate remedies, and by totally subduing the privileges of a nation, which had betrayed such hostile dispositions towards himself, and towards every thing which he deemed the most sacred: that it was in vain to propose limitations and expedients, for, whatever share of authority was left in the duke's hand, would be employed to the destruction of the nation; and these additional restraints, by discovering the public diffidence and aversion, would serve him as incitements to put himself in a condition entirely superior and independent; and as the laws of England make resistance criminal, without admitting of any positive exceptions, that it would be the utmost folly to leave the kingdom in so perilous and absurd a situation, where the greatest virtue would be exposed to the most severe proscription, and where the laws could only be saved by expedients, which they declared crimes and enormities.

In opposition to these arguments the court party asserted, that an authority absolute and uncontrollable, was a mere chimaera, and no where to be found in any human institutions; that all government was founded in opinion and a sense of duty, and whenever the supreme magistrate, by any law or positive prescription,

prescription, did shock an opinion regarded as fundamental, and established with a firmness equal to that of his own authority, he subverted the principle by which himself governed, and could no longer hope for obedience; that in European monarchies the right of succession was justly esteemed a fundamental, and even though the whole legislature should be vested in a single person, it would never be permitted him by any edict to disinherit his lawful heir, and call a stranger, or a more distant relation, to the throne; that the asserting that England was a mixed monarchy, and that a law assented to by King, Lords, and Commons, ought to meet with the concurrence of every part of the state, was a mere bubble; for it was plain, that there remained a very powerful party, who might indeed be out-voted, but who never would deem a law subversive of hereditary right any wise valid, or obligatory; that limitations, such as were proposed, gave no shock to the constitution, which, in many respects, was already limited, and they might be so calculated as to serve every purpose sought for by the exclusion; that if the ancient barriers against legal authority had been able, during so many ages, to remain impregnable, how much more would the additional ones proposed, because in depriving the monarch of power, they so far tended to their own security, that the same jealousies of religion which had engaged the people to lay these restraints on the successor, would extremely lessen the number of his partizans, and make it utterly impracticable for him, either by force or artifice, to break the fetters imposed upon him; that the king's age and vigorous state of health, promised a long life, and it could never be prudent to rend in pieces the whole state, in order to provide for a contingency which might never happen; that no human scheme could secure the public in all possible imaginary events, and the bill of exclusion itself, however accurately framed, left room for obvious and natural suppositions, to which it did not pretend to provide a remedy; that should

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the duke have a son after the king's death, would it be right that without any fault of his own, he should forfeit the title, or that the prince of Orange should descend from the throne, in order to give place to the lawful successor? That were all these reasonings to be false, it still remained to be considered, whether those expedients which were best, ought to be adopted, or those which were the most practicable; that the king would willingly consent to limitations, but was determined to endure any extremity rather than allow the right of succession to be invaded; that it would be prudent to beware of that factious violence which led to demand more than would be granted, lest the advantage of beneficial concessions should be lost, and the nation left, at the king's demise, at the mercy of a zealous prince, irritated with what he imagined to be ill usage.

It must be confessed, that in the divided state of national opinion, in regard to the lawfulness of excluding the heir in succession, the proposal of limitations, on a cursory view of the subject, appear to be a more practicable expedient than that of an exclusion: but when we consider, that all jealousy of the power, the influence, and the intrigues of the Papists, had given way in the mind of every Prelate to rancour against the Nonconformists, and that a close union had taken place between this party and the crown, it must be acknowledged that the exclusionists had some grounds for apprehension, that the remaining power which the limitations allowed to the duke would have acted with equal efficacy, as the wonderful virtue lodged in the long hairs of Sampson; and that the duke, with the assistance of his numerous party, would be enabled to sling off the limitations with as much ease, and to a much more effectual purpose than that besotted Israelite had twice disencumbered himself from the cords of the Philistines and the snares of Dalilah. On that part of the argument grounded on the principles

principles of general propriety and general utility, the exclusionists had reason, and the opinion and practices of former times, in their favour. A government which stands on the bottom of mere public opinion, and unsupported by the experience of public good, owes its precarious existence to an ignorance which time, accident, and that divine influence which operates constantly, though slowly, towards the gradual improvement of mankind, must undoubtedly remove; and a constitution is necessarily defective which has not within itself a remedy for the evils it may engender; because, in this case, redress can only be had from the law of nature, and in the appeal to the sword, those laws and customs, which support the liberties of the constitution, are equally endangered by the success of either party; an evil which the people of this country, in some measure, experienced, when they were obliged to bring in a foreign force to encounter the enchanted windmill, which the notion of an hereditary and an indefeasible right had raised.

THE quick progress which a bill of this importance had made, plainly manifested the strength of the party. The king had sent a message to the Commons, desiring them to expedite such matters as lay before them relating to Popery and the plot, with an assurance that all remedies which they could tender to him conducive to those ends, would be very acceptable, provided they were such as might consist with preserving the crown in its due and legal descent. By the zeal which the king continued to affect for the prosecution of the plot, it is evident, that, notwithstanding all the pains which had been taken by the party to decry it, that it still maintained its credit with the majority of the people; and it was peculiarly unfortunate for those individuals who had been especially marked for vengeance by the informers, that both the king and his opponents found it expedient to pay their court to the multitude at their expence.



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ON the receipt of the king's message, Mr. Booth moved, that the lords should be desired to appoint a day for the trial of the lord viscount Stafford; and it was insinuated in an address, which was drawn up by the direction of Sir William Jones, that the difficulties in the way to the trials of the lords had been much increased by the pernicious counsels of those who had advised the prorogation and dissolution of the last Parliament. The citizens, who had been kept from petitioning by the influence of the late mayor, and the domineering insolence of Jeffries, now manifested their approbation of the measures of the Commons, by an address, in which they besought his majesty that he would hearken to the humble advice of his great council, and in which they assured him, that in pursuit of those counsels his great city of London would be ready at all times to promote his ease and prosperity, and stand by him against all dangers and hazards whatsoever.

THOUGH the exclusionists had carried their point triumphantly in the Lower House and in the city, the fate of both parties still depended on the decision of the Lords. The Commons had been thwarted in almost every favourite measure, except in the prosecution of the Papists, by the negative voice of this assembly; and so much did they dread their opposition in the present case, that though the bill was passed by the Commons, and ordered on Tuesday, November 11th, it was not carried up till four days after, that interval being, in all probability, spent in endeavouring to subdue the untractable spirit of lord Halifax, and bringing matters to a compromise between the leaders of the exclusionists and their opponents; but to so little effect, that when lord Russell attended by the whole party, carried up the bill and left it with the Lords, the vote for its commitment was only carried by a majority of two,

all the bishops, except three, throwing their weight into the court-  
scale, supported the rights of a popish successor. The debate was  
long, and carried with violence and keenness on both sides; a con-  
test for superiority in the art of oratory, and the power of per-  
suasion, took place between the earls of Shaftesbury and Halifax,  
the king being present during the whole time, and the House  
of Commons, from the impulse of an eager curiosity, attend-  
ing. If vanity was the leading feature in the earl of Halifax's  
character, and the prime mover of his variable and inconsistent  
conduct, he was undoubtedly highly gratified by the event of  
this day; the earl of Shaftesbury had hitherto stood without  
a rival in the House of Lords; he was supported in this debate  
not only by the lord Essex, but the lord Sunderland, who still  
preserved his place in the king's council. The earl of Halifax,  
who in his private conversation had made an hereditary mo-  
narchy his standing jest, was the principal speaker on the other  
side the question, and in the opinion of all parties, had a vi-  
sible superiority over his uncle Shaftesbury: the bill was flung  
out on the first reading; but, in all probability, this decision  
of their lordships proceeded from other motives than the con-  
viction of their understanding, enlightened by the earl of Hal-  
ifax's powers of argument; for Sir William Temple speaks of  
it as a matter which the court was sure of carrying with the  
Lords. The commons, however, irritated with the defeat of  
their bill, and the triumph gained over their favourite Shaftes-  
bury, sent up an address to the king for a removal of the earl  
of Halifax from his councils, assigning for the cause of their  
resentment the late prorogations and dissolutions of the Par-  
liament. The king, who had interposed his authority to screen  
the earl of Danby, by a previous pardon from any prosecution  
either in the courts of law, or in the way of impeachment,  
now thought proper to tell the Commons, that whenever they

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Bill of ex-  
clusion flung  
out of the Up-  
per House.



Ann. 1680. should, in a regular manner, prove any crime either against the earl of Halifax, or against any other person, who either was or should be of his councils; he would leave them to their own legal defence, without interposing to protect them. When complaints arose in Parliament against one of the ministers of Henry the VIIIth that tyrannical prince thought it good policy to declare, that a minister who had incurred the displeasure of his people was no fit minister for him. We do not find that the Commons made Charles any reply to an answer which expressed so high a contempt for their opinions or solicitations, the earl of Halifax had the satisfaction of regaining, at least to all appearance, the first place in the king's councils: and his majesty told Sir John Reresby, on a report that the Lords intended to offer their advice for the laying aside some superfluous officers, "That let them do what they would, he would never part with any officer at the request of either House."

The arguments urged in the House of Commons in the debates on the exclusion bill, soon found their way to the press; the subject was canvassed by lord Somers and Sir William Dugdale, two of the ablest pens of the age. In this contest the exclusionists experienced the truth of those observations, which are to be found in the beginning of the second chapter of the sixth volume of this History: for though lord Somers proved, that queen Elizabeth's legitimacy was a very disputable point, and that by statutes enacted in her reign, which made it treason for any man to affirm, that the three estates could not make laws and statutes to bind the succession of the crown; this princess acknowledged that she held the government by favour of an act of Parliament: yet these authorities were pretended, by Sir William Dugdale, to have no weight on the very principles which ascertained their validity, viz. that the birthright

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of Elizabeth was generally reputed to be questionable; that she had been solemnly bastardized, and, consequently, that her title to the crown depended on statute law. It is this prostitution of the powers of argument which, by confounding the plain sense of mankind, reduces the noblest of human acquisitions to an impertinent and even mischievous pastime, and retards the progress of that knowledge which experience and common observation would otherwise effect.

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ON the day that the exclusion bill had been left with the Lords, the King had, by message, demanded a supply for Tangier, but the Commons, provoked with their disappointment, not only refused to comply, but voted an address, in which all the flagrant abuses in the government are insisted on, viz. the Dutch war, the alliance with France, the prorogations and the dissolutions of Parliament, in which these evils are ascribed to the machinations of Papists, by whose councils it was plainly insinuated the king had been governed; and, consequently, that his majesty was the chief and most formidable conspirator against the religion and liberties of his people. After making mention of Coleman's correspondence, the popish plot, Godfrey's murder, commissions granted to Papists, attempts to corrupt witnesses, the meal-tub plot, the discharge of the grand jury, &c. the Commons, upon the whole signified, that upon mature deliberation they had lately proposed one remedy for these great evils, without which all others would prove vain and fruitless, and rather expose his majesty's person to the greatest hazard, and the people together, with all that was valuable to them as men and Christians, to utter ruin and destruction; and that if by his majesty's great goodness they might be effectually secured from Popery, and that none but persons of known fidelity to his majesty, and sincere affection to the Protestant religion,

Commons remonstrate on the king's government.



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Condemnation and execution of lord Stafford.

Nov. 30.

The present ill humour of the Commons was very unfavourable to the cause of the impeached popish lords, and agreeable to the malicious interpretations of the party-writers of these times, it was determined that the lord viscount Stafford should be the first victim, because, from his age, infirmities, and mean capacity, he was deemed the least capable of defending himself. The chancellor Finch, who on this occasion was created earl of Nottingham, was appointed high steward for conducting the trial; the charge was opened by serjeant Maynard, seconded by Sir Francis Winnington, and Mr. Treby had the management of the witnesses, who were divided into classes, such as were to prove the plot in general, and such as had matter to urge against the prisoner in particular: of this last class were Dugdale, Oates, and Turberville. Dugdale gave testimony, that the prisoner at Tixall, a seat of lord Aston's, had endeavoured to engage him in the design of murdering the king, and had promised him, besides the honour of being sainted, a reward of five hundred pounds for that service. Oates swore, that he had seen several letters signed Stafford, to the jesuits, containing assurances of his lordship's fidelity and zeal in promoting the catholic design; that his lordship in 78, received a commission from Fenwick, to be paymaster-general of the army in Oates's presence; and that in discourse with the said Fenwick, he said, he was of necessity to go down into the country, to take account how affairs stood, and did not doubt but at his return Grove should do the business, with this addition, speaking of

of the king, he hath deceived us a great while, and we can bear no longer. Turberville swore, that after a fortnight's acquaintance with the prisoner at Paris, in the year 75, and a promise of secrecy, he proposed to him, in direct terms, to take away the king of England's life, who was a heretic, and a rebel against God Almighty. As a circumstantial proof of the truth of this affidavit, Turberville asserted, that in his fortnight's acquaintance he had free access to his lordship; that when he took his leave, his lordship having the gout, had his foot on a stool: that his lordship appointed him to wait at Dieppe, in order for his coming over with him in the yacht: that he did so, but whilst there he received a letter from his lordship, signifying that he had altered his resolution, and should take his journey by the way of Calais.

In the bringing lord Stafford to his trial, in preference to the remaining four popish noblemen, proceeded from motives of policy, the politicians, like the generality of those who mistake craft for wisdom, were caught in their own snare. The lord Stafford, through the whole course of his long and tedious trial, defended himself against the art and abilities of the managers for the Commons, with a spirit, a sense, a presence of mind, and a firmness of resolution, which surprised, and even puzzled his prosecutors. To the incredibility of the assertion, that a private individual should offer money for murdering a king, without laying down any scheme by which the assassin may insure some probability of escape, Stafford was able, in many material particulars, to discredit the testimony of the witnesses. He observed that Dugdale, who had defrauded lord Aston, and by his extravagance had run himself in debt, and had no way to get out of a jail, but by making pretended discoveries, had directly, and palpably, perjured himself in many parts of his deposition: he proved,



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proved, by undoubted testimony, that he was at Bath at the time when Dugdale swore that he had assisted in a great confute of the Papists held at Tixall. Three several persons stood forth, and charged Dugdale with endeavouring to suborn them to countenance his testimony; and the prisoner pertinently observed, that Dugdale, not only for his knaveries and perjuries deserved no credit, but also because he had sworn, that whole packets of letters, filled with the most horrid treasons, had passed through his hands, and had been all opened and read by him, and yet he had not one line or scrap to produce, in support of the evidence, or to clear himself from the manifold forgeries laid to his charge. Against Oates the prisoner objected the unlikelihood, that so many, and such great persons, should place such an unreserved confidence in him, and yet leave him in so forlorn a condition that he begged at doors for the alms of sixpence. He charged him with perjury, in having, before the whole House of Lords, declared upon oath, that he had no more persons to accuse in relation to England; and yet, afterwards, he accused the queen; as also in superinducing the circumstance of the prisoner's having received a commission from Fenwick, after he had several times affirmed, upon oath, both at the council-board, and the Lords bar, that he had given in a full and entire account of all he knew. And the prisoner farther insisted, that a man who, for three years together, had feigned himself to be a Roman Catholic, and who had solemnly renounced one religion and embraced another, in order to be a witness against the professors of it, was so far from being worthy of credit in a court of justice, that he did not so much as deserve the name of a Christian. Against Turberville the prisoner proved, that he had to two several persons denied that he knew any thing of a plot: he charged him with the having deposed that he went to live with lord Powis in the year 73; and that he came into England in the year 76; but that

the next day he altered both these dates, the first to 72, Ann. 1680.  
the second to 75. He charged him with perjury for having  
peremptorily swore, that the prisoner came over from France,  
in company with count Grammont, in the way of Paris;  
whereas proof was produced, that he did not leave France  
till about a month after count Grammont, and that he then  
came by the way of Dieppe: that in the said information he  
also swore, that the earl of Castlemain was several times present,  
at certain traiterous consults at Powis-castle, in the year 72  
and 73; whereas the contrary was proved by notes, out  
of the journal book of Mr. Lidcot, a Protestant, who had  
lived with the said earl nine years. The gentleman and  
page who waited on the prisoner attested, that they never once  
saw Turlberville at their master's lodgings, and that he never had  
the gout.

HUMANITY was again disgraced by the clamours and outrage  
of the people during the trial of this unfortunate nobleman: he  
was more than once thrown into confusion on the occasion; yet,  
on the fifth day, notwithstanding the fatigues and mortifications  
he had undergone, he so far recovered himself as to sum up the  
whole case, as to fact and argument, in a manner calculated even  
to soften the obdurate temper of party, and to bring conviction  
to every mind not strongly tinctured with prejudice. After  
pleading his age, his want of endowments, his exhausted spirits  
and strength in his long trial, in consideration of which he  
hoped their lordships, who were both his judges and counsel,  
would pardon the many defects which he must needs com-  
mit; he recapitulated the whole evidence, as well, he said,  
as his weak memory and discomposed condition would per-  
mit: he reminded the Lords of the several instances where-  
in he had proved the witnesses foresworn: he recounted the



Ann. 1689.

various contradictions; he made observations on the moral impossibilities, and absurdities, as to divers parts of their evidence; and inferred from thence, that those who will forswear themselves in one thing, are not to be credited in any. He insisted on the infamy of the witnesses, and the wickedness of their lives: he inculcated their former beggary, compared to the encouragement, caresses, applause, and allurements of gain, which they had found in their new employment: he alledged their subornation to make good their forgeries, and their bare oaths, without any corroborating circumstance but what depended on the same oaths: he represented, that during a course of forty years he had, through many difficulties and losses, still maintained his loyalty; and was it credible that now, in his old age, easy in his circumstances, but dispirited by infirmities, he should belie the past tenor of his life, and engage in hazardous undertakings against his royal master, from whom he had never received other than kind treatment. Having thus summed up his defence, the prisoner proceeded to propose certain points, or doubts, in law, which occurred in his case, concerning the manner of the impeachment, and the continuance of it from Parliament to Parliament. Whether the indictment contained an overt-act necessary to a conviction of treason? Whether men, who swear for money, ought to be credited or admitted as witnesses? Whether the plot was as yet legally proved? And whether, there being but one particular witness to any one particular point, such an evidence be sufficient in law?

THE unequal contest in which the prisoner was engaged, the unexpected manner in which he had acquitted himself, his great age, his long confinement, and the present harrassed state of his mind, were circumstances of commiseration which held in suspense

pence the resentments of party, the incentives of policy, and the Ann. 1680.  
zeal of bigotry, and for a while softened the whole assembly into  
a generous sympathy, when Sir William Jones resumed the evi-  
dence against the prisoner with such force, art, and address, that  
all the baneful passions were again inflamed, and a violent in-  
dignation succeeded the momentary tendernefs. It is an avowed  
truth, that the consciences of lawyers are governed by rules pe-  
culiar to themselves, and entirely opposite to the ideas which  
prevail with honest men of other professions; a circumstance  
which, though of a very important nature, has little weight with  
courts of judicature; every judgment is directed by the bench  
or the bar, and the triumph gained by Sir William Jones is a  
striking instance amongst a variety of others, which disgrace our  
annals, that trials at law are often the mere mockery of justice;  
and that the depriving an individual, pleading for his life, of the  
advantage of having the last word with the court, is, in reality,  
the depriving him of every advantage naturally attendant on that  
much-boasted part of the English constitution, the trial by ju-  
ries and peers.

ON the following point of law, whether two witnesses  
were required to every overt-act, the Lords called upon the  
judges for their opinion, and the whole bench, led by the  
lord chief justice North, gave it against the prisoner, and  
declared, that if there be several overt-acts which are evi-  
dences of the same treason, though proved by different wit-  
nesses, it is sufficient to maintain an indictment or impeach-  
ment. Whether the judges, in giving this opinion, were actuated  
by motives very imprudently acknowledged by baron Atkins, in  
the course of the trial, viz. that the evidence of one witness to  
one overt-act, ought to be deemed sufficient in the prisoner's  
case, because if it was not, it would prove that those persons

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who



Ann. 1680. who had already suffered, had suffered illegally; or whether, with greater probability, they were desirous of making the crown more formidable, by adding to the great advantages which they already had in trials of treason, certain it is, that the lords, in giving way to this decision, destroyed all the useful and benign purposes of the act of the twenty-fifth of Edward the III<sup>d</sup>. and subjected the life and property of every imprudent man to the vengeance of the court. All the other objections were over-ruled by the Lords, and on the seventh day from the commencement of the trial, the Commons attending in their places, the court, by a majority of twenty-four voices, gave sentence against the prisoner, who received the fatal verdict with becoming resignation; "God's holy name be praised," was the only exclamation he uttered; but when he was told by the high steward, that the Peers would intercede with the king for remitting the more cruel, and what is termed the most ignominious parts of his sentence, hanging and quartering, nature for one moment prevailed, and a burst of tears shewed the lively sense he had of the injustice of the sentence: however, he excused the weakness, by politely saying, that he was moved by their lordship's goodness, not by any terror of that fate which he was to suffer.

UNDOUBTEDLY, more from a jealousy of the exertion of the prerogative than from any personal rancour, the sheriffs, Bethel and Cornish, who were suspected of entertaining republican principles, started a doubt of the king's power of exercising this small act of lenity; and lord Russel, a man eminent for his virtue and humanity, actuated by the same zeal for preserving popular privileges, seconded, in the Lower House, the scruple of the sheriffs: however, as the Peers had pronounced it superfluous, the Commons acquiesced and returned an answer,

that they were content that the sheriffs should execute William late viscount Stafford, by severing his head from his body.

Ann. 1680.

As Stafford had been treated with great neglect by the court, had often been in opposition, and was formerly connected with lord Shaftesbury in schemes for the dissolution of the first Parliament, it might be supposed that on these reasons he would have found more favour with the Commons than any of the five lords who had been accused of the conspiracy, and that he would have been at least the last victim; but the party confiding in that pusillanimity which commonly attends old age and mean parts, expected that the hopes of a pardon would produce some discoveries which would ascertain, beyond a doubt, the reality of the plot, and more particularly affect the duke of York. And Stafford, having let fall, that he had somewhat to communicate which might support the exclusion bill, provided it would be the means of saving his life, he was called before the House of Peers, where he discovered many schemes which had been laid by himself and others, for procuring a toleration to the Papists; but on his naming the earl of Shaftesbury among those who were concerned in these schemes, he was in a great hurry ordered to withdraw; a period was put to the examination, and Stafford now prepared himself for death with an intrepidity which even innocence and integrity, unassisted by a natural firmness of mind, or an especial support from divine mercy, cannot always command. When going to execution, he called for a cloak to defend him from the rigour of the season, and said, "Perhaps I may shake with cold, but I trust in God, not with fear." Of all those thousands of people which a savage curiosity had brought together on this awful occasion, not a face appeared more serene or chearful than was the countenance of the prisoner; who, when mounted on the scaffold, continued with reiterated asseverations to make protestations of his innocence: he

Burnet.

solemnly



Ann. 1680. solemnly disavowed all those immoral principles which, on the authority of the practice of the church of Rome, at different times have, without distinction, been ascribed to the whole body of the Papists: he mentioned the witnesses with a becoming charity; "And he hoped, he said, that the time was now approaching, that truth would be brought to light; and that the world would be acquainted with his innocence, and what injury he had sustained." That fury and rage of the populace which had appeared at Stafford's trial and condemnation, was now melted into tenderness and fruitless tears: they assented to these protestations, which he frequently repeated, of his innocence, by respectful bows and expressions which manifested their belief and their compassion: "We believe you, my lord; God bless you, my lord." The executioner also, affected with the general sympathy, three times lifted up the axe before he could execute the fatal office; and a deep sigh accompanied the stroke which put a final end to the cares and the sufferings of the prisoner. The multitude, struck with pity and remorse, beheld, in mournful silence, the bleeding head exposed at the four corners of the scaffold, with the usual warning cry of, "This is the head of a traitor." And thus by a sudden revolution in the minds of the populace, the fate of this once hated popish conspirator, was more solemnly lamented than that of any one of the Protestant or patriot martyrs who had suffered from the first period of the monarchy to the present times.

It is worthy observation, that in the division of the Peers, four of lord Stafford's own family, viz. the earls of Carlisle, Berkshire, and Suffolk, and the lord Howard of Escrick, condemned him, whilst he was absolved by the lords Lucas and Holles, who were eminent for their zeal against Popery; that the ministry were equally divided on this point, as on the bill of exclusion; that the king's great favourite and confident, the duke

duke of Lauderdale, was on the rigorous side of the question, Ann. 1680. with the lord privy-seal, Anglesea, the lord president, Radnor, and the lord high steward, Nottingham; who, moreover, declared his faith in the plot in the strongest terms; that the dutchess of Portsmouth, in the rage of her disappointment, on the ill success of the exclusion bill, attended the trial, dealing sweetmeats and smiles among his prosecutors; and that the king, who had refused to withdraw his countenance from that odious minister, Lauderdale, on the repeated instances of his Scotch subjects, and the repeated addresses of the English Parliament, should, without a struggle, or any seeming reluctance, deliver up a faithful subject to the mistaken prejudices of a party, at the same time that he declared to his intimates, that he did not believe one word of the plot, or that any conspiracy of any kind had been formed against him.

Dalrymple's  
Memoirs.

Reresby's  
Memoirs.

If the execution of Stafford gratified the resentment of the exclusionists, it tended very much to weaken their authority with the people: as there is nothing more variable than the sentiments of the multitude, so there are no extremes so opposite that they will not, in their turns embrace. Their natural passions, untamed by cultivation, are easily roused to the highest point of frenzy; and the transitions from the extreme of hatred to the extreme of sympathy, is often as sudden as the effects are violent. The leaders of the popular party, not aware of this circumstance, had surfeited, by their too frequent executions, the eager appetite of the people, whose belief is always more founded on humour than rational conviction. After the first executions, every blood-letting, according to Burnet, lowered the heat of the nation into a mortal coldness; and the affecting scene of Stafford's sufferings, by exciting a general commiseration, turned so strongly the tide of prejudice, that the prelatical party, who now made no scruple to avow, that they thought the church was in less danger from the



Ann. 1680.

the Papists than from the Presbyterians, on account of the greater popularity of the latter, were successful in the circulating the opinion, that there never had been any plot or conspiracy among the Papists; that the whole was the forgery of the Presbyterians; and that it was done with the design of ruining the church and monarchy. The venal pen of Sir Roger l'Estrange was employed to prove, that moral impossibility of Sir Edmundsbury Godfrey's having been his own murderer, and some of the most virulent of the party made no scruple to lay it to the charge of those who were the warmest prosecutors of the plot, which, it must be acknowledged, was carried on by such violent and unjust proceedings, as can admit of no excuse or palliation, and which served as examples to take away as many innocent lives among the Protestants as had suffered among the Papists; but after acknowledging that the whole fabric of the popish plot, such as it stands in the depositions of the witnesses, was wholly unsupported by probable circumstances, and that the witnesses were of characters too infamous to be allowed admittance into a court of justice, it will be necessary to repeat every untoward circumstance and impolitic measure of the Papists, which supported their credit amongst the people. Besides the imprudent attempt on Dugdale, one Reading, a lawyer, offered four thousand pounds, and three hundred pounds a year in land, to Bedloe, if he would disavow the testimony he had given against the popish lords; Bedloe communicated this offer to prince Rupert and the earl of Essex; and Reading was brought, by their advice, into a place where two witnesses heard the proposal repeated; on which Reading was apprehended, and on trial condemned to be set in the pillory, to one year's imprisonment, and a fine of one thousand pounds. Some servants, or low dependents on the earl of Danby, were also set in the pillory, on a charge of corrupting Oates's servant to swear infamous practices against his master; and one Jennison, a gentleman of birth

Smith and fortune changed his religion on hearing that Ireland, who was his father's confessor, had defended himself against Oates's evidence by asserting that he was in Staffordshire from the beginning of August till the 12th of September, and that he had died affirming it to be true: whereas Jennison positively insisted that he saw Ireland in London on the 19th of August; and that he asked Jennison how the king was attended at Windsor, and when Jennison answered, that he walked about very barefacedly with few attendants, Ireland seemed to wonder at it, and said, "It would be easy then to take him off." Mr. Smith, a priest, mentioned in the written account published by Jennison, deposed, that when he was at Rome he was told, in general, of the design of killing the king: and on the occasion of Lord Stafford's trial, Jennison also deposed, that Ireland told him, there was but one stood in the way; and that it was an easy thing to poison the king; and that Sir George Wakeman might easily and opportunely do it; that Ireland had farther proffered Jennison to remit a debt of two hundred pounds, if he would go to Windsor and undertake it; that Mr. Thomas Jennison, a Jesuit, had told his brother, the deponent, that there would be no great sin to take the king off; and that on Mr. Jennison's desiring a commission in the new-raised army, his brother told him he would procure him one from the duke of York; and that there was another army to be raised, but this was not to take place till the king was taken off.

THREE of the sixteen witnesses sent from St. Omer's to invalidate Oates's evidence, by deposing, that he was at St. Omer's at the time that he pretended to be employed by the Papists in England, having, on their first arrival, been apprehended by Sir William Waller, an active justice of peace, told him, that they were come to be witnesses; and being asked what they were to witness, they answered, they must know that from their superiors.



Ann. 1696.

Their incidents, with the deposition of a knight, two Protestant clergymen, a popish priest, two of Oates's servants, and others, that Oates was in London at the time that he asserted he was, are incidents of a nature so extraordinary, as to plead some excuse for the credulity of the people, whatever they may do for the conduct of the bench: and it is to be observed, that after the lord chief justice Scroggs had, for political reasons, exerted his rhetoric in favour of the prisoners rather than in supporting the credit of the witnesses, and in prejudicing the jury against the whole body of Papists, the city juries, tho' they are represented to have been blindly partial to the views of the opposition, acquitted the earl of Castlemain, husband to the dutchess of Cleaveland, who was accused by Oates and Dangerfield of an intention to assassinate the king: Sir Thomas Gascoign also, a very aged gentleman in the North, being accused by two servants whom he had dismissed for dishonesty, received a like favourable verdict.

As regards the conduct of the high church and court party, who so scandalously reproached the leaders of the opposition with having framed the popish plot, on the view of inflaming the passions of the people, and to ruin the reigning family by the weight of national fear and resentment, it is to be observed, that the whole plot contains such low absurdities and palpable contradictions, that it is impossible it could be invented, or adopted by any man of parts or education: that the first informer, dreading the opposition of powerful enemies, and not certain of the support of any men, or even of any individual of consequence, had acquitted the duke, Danby, Ormond, and all the ministry, persons most obnoxious to the popular leaders: that it was the officious zeal of Danby, with the intent of diverting from himself the resentment of Parliament, which gave life and credit to the plot by the seizing Coleman's papers: that the

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king with the same view, from time to time, revived the ris-  
tional warlike, by affecting, as did all his ministers, a perfect  
belief in the plot, and a zeal for its prosecution: that even lord  
chief justice North, who is ranked by his kinsman amongst the  
unbelievers, not only connived at the partial and unjust decisions  
of his brethren on the bench, but, on several occasions, sup-  
ported the credit of the witnesses against the prisoners, and de-  
cried those who gave evidence in their favour, by such expres-  
sions, "They are all Papists, and speak in a general cause,"  
Also when pronouncing sentence on Reading, he, in a solemn  
manner, declared his belief in the plot by the following senti-  
ment, "That if the conspiracy had not been by the mercy of  
God detected, God knows what might have befallen the nation."  
And again, in the following assertion, when taking the last de-  
position and dying words of Bedloe, "That the plot was so  
evidently made out, that no reasonable man, no Protestant,  
could doubt the truth of it." It is also to be observed, that  
the bishop of London was of that secret committee of Lords who  
sat upon Godfrey's murder at Wallingford-house, and whose  
conduct and practices have been justly condemned, as acting the  
part of Romish inquisitors, rather than candid enquirers: that  
the high church party beat the first alarm to the nation, and  
did not abate of the warmth of their prosecution, till they grew  
jealous of the Presbyterians; when they endeavoured, with the  
same degree of warmth and activity, to persuade the people,  
that they never had any thing to fear but from the machinations  
of that party; a conduct equally fatal to innocent individuals,  
and yet more destructive to the nation, by diverting their atten-  
tion from the power, the influence, the designs, and the hopes of  
the Papists.

It is the violence, the virulence, and the want of candour in  
all parties, which have deceived the judgment of all the historians



Ann. 1686. who have written on these times. Mr. Hume mentions every circumstance which is the most favourable to the Papists without making any mention of all those variety of incidents which confirmed the doubts even of the most scrupulous men of those times, and led them to believe, that many circumstances of the plot were true, though many were added, and others much magnified, and then he pronounces, that the party formed against the king and his brother were composed of a populace so credulous from prejudice, so blended with religious antipathy, as implicitly to believe the most palpable absurdities, and conducted by leaders so little scrupulous, as to endeavour, by encouraging perjury, subornation, lies, impostures, and even by shedding innocent blood, to gratify their own furious ambition, and subvert all legal authority. That there are such individuals in all parties, to the shame of human nature, it must be acknowledged: but Mr. Hume, who makes very slight animadversions on the deplorable conduct of the other party, of the wicked use they made of witnesses, whom they acknowledged to have been corrupt and perjured, might have taken into consideration that unhappy facility which attends all vulgar characters, in the believing every report which they wish to believe, and, in particular, if such report should gratify the views of avarice, ambition, or the lesser feelings of resentment: that the earl of Shaftsbury, and several others, were at this time well acquainted with the intentions on foot, not only to procure a toleration, but a re-establishment of Popery in this kingdom as the national religion, and that, with the desire of giving a general alarm to the public, they might be led to believe that there was something at bottom more black than appeared on the surface of things, and which might induce them to go on in their endeavours to unravel the mystery, and that even the manifold inconsistencies and absurdities contained in the narratives, instead of discouraging them, might serve only to confirm them in their belief, as

as farther incentives to discover the bottom of the plot, and might be considered as objections which a more complete information would fully remove. Ann. 1689.

These are the grounds of justification, or at least palliation, for the warmth with which the popular leaders prosecuted the plot, which may lead to some useful observations, that may assist us to unravel that maze of intricate circumstances and incidents, which, by their opposition to each other, holds the judgment in suspense, and prevents the candid mind from proceeding to any decisive determination on this very obscure part of the English history. It is to be remembered, that Charles had not only favoured all the ambitious views of France, but had actually entered into a conspiracy with the French court, to destroy one of the chief supports of the Protestant interest, in the reduction of the United Provinces: that he had actually supported that part of the demands of France, which provided for the re-establishment of Popery in Holland, by refusing to make a peace with the States General, till they had complied with all the exorbitant conditions offered by the haughty Lewis: that he had actually entered into a treaty, by which that monarch was to supply him with men and arms to subdue the liberties of his own subjects, and to re-establish Popery in England; and that he had pledged his faith, to avow to the whole world his own conversion to the see of Rome: that his brother, the presumptive heir to the crown, had, with more integrity, though less policy, avowed his conversion: that both the brothers had married Papists, and by their respective marriage contracts, the Romish religion was openly celebrated in the royal palaces of England: that by the legal protection given to the family priests, and the connivance to other individuals of this order without number, to frequent the metropolis, and disperse themselves all over the kingdom, the great work of conversion was carried on with such

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success,



Aug. 1670. success, and with such countenance from the court, that it alarmed the fears of the church, and induced them to put the nation on their guard against the impending evil. With these apparent dangers the duke of York, and his secretary, with other inferior emissaries, were employed in carrying on criminal correspondences with the courts of Rome and Paris, to take advantage of the favourable crisis, and to lend their assistance towards the rooting out the pestilent northern heresy. The Jesuits in England had their correspondence with the brotherhood all over Europe; and, with their patron in Rome, under whose authority, and by whose direction they proceeded in all things, had their stated times and places of rendezvous, had held their general assembly, agreeable to summons, on the very same day in April, mentioned by Oates, in the duke of York's own house, according to what this prince confessed to Sir John Keresby<sup>8</sup>: and, in addition to these circumstances, the dutchess of York, to cover the retreat of those priests and Jesuits who were deepest in the secret, made a private voyage to Holland<sup>†</sup>. It is affirmed in one of the trials of the Papists, that Ewers, who is often and very materially mentioned in Dugdale's evidence, was one of these priests; and candour must acknowledge, that it is difficult to conceive why a secretary of state should order the mayor of Dover to arrest and detain Norris, together with his companion, unless it was apprehended that the party

<sup>8</sup> Sir John Keresby affirms that the duke, after he was king, told him, that indeed there had been a meeting of the Jesuits that day, and that all the scholars of St. Omer's knew of it; but that it was well Dr. Oates knew no better where it was to be; for, continued his majesty, they met in St. James's, where I then lived, which if Oates had known, he would have cut out a fine spot of work for me.

<sup>†</sup> This voyage is mentioned in a letter of the duke of York to the prince of Orange, in which he informs the prince, that the dutchess intends to pay a visit to her daughter-in-law, but to be incognito.

had still some secrets not known to the public. From all these circumstances it is highly probable that Oates, though not so much in the confidence of the leaders of the party as to be entrusted with any plans or schemes which they had formed for the entire conversion of the English, and the bringing its church into obedience to the see of Rome, had heard enough from the inferior emissaries to be convinced, that there was some grand design carrying on, which was to be fatal to the Protestant cause, and that stirred up by resentment for the contempt with which he was treated, and the poverty in which he was suffered to remain, had made up in invention for the want of knowledge of particulars; and that Bedloe and the whole crew of informers, had all grounded their several depositions on what they had observed to be the common talk and expectations of the party, viz. that Protestantism in England would be soon extirpated, and the Romish religion prevail. Turberville, some time before he thought of following the trade of a witness, told Dr. Lloyd, afterwards bishop of St. Asaph, that this opinion was current among all the Papists; also that a great deal of blood would be shed before it could be brought about; and all the converts from Popery, whether they acted the part of witnesses, or not, frequently mentioned this circumstance in their private discourse.

It is possible that the most extraordinary and the most incredible parts of the depositions might arise from the extravagant conceits of the inferior Papists, who endeavoured in this manner to account for the sanguine hopes which their leaders had of rooting out, in a short time, the northern heresy; and, in regard to the evidence so circumstantially given in of the design of killing the king, it is more than probable that it arose from some very imprudent expressions of a warm resentment which the party had conceived against his majesty, for the having broken his word in regard to the avowing his conversion,



Aug 16 1964

that there

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...and having been so long in the hands of the enemy was

was against them and against them only, that the resentment of the nation could, with any degree of justice, fall. To reduce their power within safe and salutary bounds, should have been the general and particular concern of every sect of Protestants; and to this grand object the wisdom of Parliament ought to have been alone directed: but in any attempts of this nature it is plain that the Commons would have been forsaken by the high church-party and the House of Lords; and in consequence of such a desertion by the majority of the nation. In this light we are to consider the popish sufferers as victims sacrificed by the court to appease the wrath of the people; and, on the other side, as victims to the policy of the deep intriguers in the opposition, to expose the guilt of the court: the ways, it must be acknowledged, to obtain this end, by procuring evidence through the temptation of a reward, was infamous; yet, to the reproach of modern times, this snare for the lives of the innocent, and for the consciences of the corrupt, is a practice which still prevails in the administration of government, and is still supported by the wisdom of the bench, as a lawful, a laudable, and a necessary expedient to obtain justice on public delinquents.

IMMEDIATELY after the trial of lord Stafford, the Commons passed a vote, *nemine contradicente*, to resolve themselves into a grand committee, in order to resume the consideration of ways and means to secure the kingdom against Popery and arbitrary power; but on the day appointed for the debate, the king ordered their attendance in the House of Lords, and in a speech from the throne renewed his instances for a supply, and his promises to concur in any remedies which might consist with preserving the succession of the crown in its due and legal descent.



Apr. 1680.

Debates in  
the commit-  
tee for secur-  
ing the na-  
tion against  
Popery and  
arbitrary  
power.

THE refusal of the Lords to concur in the exclusion bill, flung so great a damp on the spirits of the exclusionists, that even Colonel Titus and Sir William Jones, two of the warmest champions of the party, began to think it safest to confine their demands within the limits prescribed in the king's speech. Sir William Cavendish, after a preamble in which he insisted on the expediency of the bill of exclusion, concluded with a motion that a bill might be brought in for associating all his majesty's Protestant subjects, Mr. Montague for one to secure frequent Parliaments, because that any offers which were likely to prove strong enough to secure the nation against Popery, would bring on a dissolution before it came to perfection; and then, said he, these offers will be made use of to set the people against Parliaments, by persuading them that the Commons have made attempts to alter the government; Mr. Harbord closed with a motion which had been made for a bill for banishing the most considerable Papists; and a variety of members were as express for the association, when Sir Nicholas Crew, either wickedly or weakly, brought back the attention of the House to the bill of succession, and concluded with a motion, that in the first place the House would vote that as long as the Papists had any hopes of the duke of York's succeeding to the crown, the king's person, the Protestant religion, and the lives and liberties of the people were in apparent danger. Colonel Titus, who spoke after Sir Nicholas Crew, insinuated, that it was rather the business of the House to pursue what was practical, than what was best. Sir Francis Winnington gave it as his opinion, that all measures which were likely to prove serviceable against Popery, would be equally impracticable; but, however, it was necessary to adventure: after this, the motion for the bill of banishment was agreed to, at the instance of Sir Richard Temple; Sir Francis Roll then called for the question on Sir Nicholas Crew's motion; and after many severe reflections on the conduct of the king, and his majesty's

jeſty's attention to private cabals, the four following bills were or-  
 dered in, viz. a bill for an affociation of all his majeſty's Proteſtant  
 ſubjects, for the ſafety of his majeſty's perſon, the defence of the  
 Proteſtant religion, and the preſervation of his majeſty's Proteſtant  
 ſubjects againſt all invaſions and oppoſitions whatſoever, and for  
 preventing the duke of York, or any Papiſt, from ſucceeding  
 to the crown: a bill to ſecure the meeting of Parliaments, as  
 one means to prevent arbitrary power: a bill to regulate the  
 commiſſion and conduct of judges, and that they ſhould here-  
 after hold their places and ſalaries, *quamdiu ſe bene geſſerint*; and  
 a bill to prevent the illegal exaction of money.

THESE votes were all paſſed previous to the taking the king's  
 ſpeech into conſideration. Mr. Hamden opened the debate on  
 this occaſion, and ſet out with obſerving, that by the tenour of  
 the ſpeech, it was obvious that the ſucceſs of the Parliament de-  
 pended upon their answer to it, and, conſequently, the ſafety  
 of the Proteſtant religion, both at home and abroad: he then  
 proceeded to ſome very ſevere animadverſions on the reſervations  
 it contained, appealed to the Houſe, whether the agents for the  
 French and the duke of York, both male and female, were not  
 as buſy and in as great credit at court as ever; concluded, upon  
 the whole, that while things were in this ſtate, no Proteſtant  
 prince would depend upon England, and, therefore, it would  
 be in vain to treat of alliances or money, for the ſupport of  
 them, and moved, that a committee might be appointed to  
 draw up an addreſs to aſſure his majeſty, that when he ſhould  
 be pleaſed to grant to the prayer of his Commons, ſuch laws  
 as might be neceſſary for the ſecurity of religion, they would be  
 ready to grant him what money his occaſions ſhould require, not  
 only for the ſupport of Tangier and alliances, but to enable him  
 to have a good fleet at ſea, &c.



Apr. 1680. REANIMATED with the heat of debate, the party now returned to the prosecution of the bill of exclusion with their accustomed warmth. Lord Russell gave it as his opinion, that it was impossible that affairs should ever be settled on a good Protestant bottom as long as there was a popish successor, and that therefore to avoid misconstruction, the supply might be offered to the king in exchange for that bill only. Sir William Jones receded from the opinion he had delivered in the foregoing debate, that it would be advisable to get something in lieu of the exclusion, and after observing that the little success which the endeavours of Parliament had met with, made it reasonable to suspect, that they were permitted to sit rather to destroy themselves than to save their country, and that those who advised the king to make the limitations in his speech, did it with the intention of drawing the Commons into adopting the expedient proposed, in order to lay them under the reproach of having attempted to destroy the monarchical government, and then gave it as his opinion, that such an answer should be returned to his majesty as might, if possible, create in him a good opinion of the intentions of the House, as might satisfy him of the necessity of the bill contended for, as might convince him that all other acts of grace would only serve to fatten them, as sheep for the slaughter, and as might specify, that if the bill of exclusion was granted, his majesty might have what money he wanted. Mr. Gee, who spoke after Sir William Jones, was for enumerating, in the address, all the national grievances, particularly standing armies, and for leaving out all general offers of money, whilst the majority of the members who spoke on this occasion were of opinion, that the exclusion bill alone was not adequate to the offer of an extraordinary grant.

THE committee, who had the care of drawing up the address, seem to have adopted, as much as possible, the various sentiments

sentiments which fell from the different members in this debate. It acknowledges his majesty's great goodness in renewing his assurances to concur with the Commons in any means for the security of the Protestant religion, and for his gracious invitation to make their desires known: it expressed the sorrow of the House that those princely offers were rendered, by the reservation annexed to them, wholly useless: it justified, on very substantial reasons, the conduct of the House, in regard to the prosecution of the exclusion bill: after expatiating on the dangers which accompanied the expectations of a popish successor, it gave very alarming specimens of the mischief which must follow, in case such a one should inherit, and in particular that such foreign princes as had been invited to assist in securing the crown to the duke of York, and extirpating Protestants out of the dominions, would expect the performance of what had been promised: it besought his majesty to consider, whether, in case the crown should descend to the duke of York, the opposition which might possibly be made to his possessing it might not only endanger the farther descent in the royal line, but even monarchy itself; and for all these reasons, it declared the Commons humble petitioners to his majesty, that he would be graciously pleased to depart from the reservation in his speech; and when the bill should be presented to his majesty, in a parliamentary way, to disabie the duke of York from inheriting the crown, his majesty would give the royal assent thereto; and, moreover, as what was necessary to fortify and defend the same, that he would be further pleased to assent to the association bill. It also declared the Commons to be humble suitors to his majesty, that from thenceforth such persons only might be judges, as were men of ability, integrity, and known affection to the Protestant religion, and that they might hold their offices *quandiu se bene gesserint*; that several deputies and justices of the peace, fitly qualified for those employments, having been of late displaced,

Ann. 1686

Commons address the king on the bill of exclusion.

add to what is said in the margin

and



Ann. 1680.

Commons  
and desired  
the king no gain  
take to his  
will

and others put in their names, who were men of arbitrary principles and countenances of Papists and Bishops, such only as were so qualified might serve in those offices, and lord lieutenants; and finally, that none but men of known experience, courage, and affection to the Protestant religion, might be employed either in this military army. In consideration of the great of these requests, the address further declared, that the Commons were ready to assist his majesty in all things, and that they did presume to hope that after this their humble answer to his majesty's gracious speech, no evil instruments whatsoever would be able to lessen his majesty's esteem of the fidelity and affection which they bore to his service; that he would always retain, in his royal breast, the same favourable opinion of them, his loyal Commons; and that those other good bills which they had then under consideration, conducing to the great ends before-mentioned, as also all laws for the benefit and comfort of his people, as should from time to time be tendered for his royal assent, would find acceptance with his majesty.

Policy of the  
prince of  
Orange.

It is in a manner acknowledged by the prince of Orange, that during the second Dutch war he had carried on a correspondence with the malecontents in England, with a view to force the king, by the interposition of Parliament, into a separate peace, on reasonable terms. The honourable and even heroic part the prince of Orange had acted during the course of the war, which Lewis maintained against the States-general and their allies, attracted the attention and the applause of all Europe; and he was justly considered as the defender of the liberties of the whole continent, and the hero of the Protestant cause. These considerations, and the opposite conduct of the king of England and his brother, naturally strengthened a connection which began in necessity.

cessity; and that the prince of Orange had even at this time in-  
 duced a contemplative, though distant prospect of the crown  
 of England, appears from the jealousy he expressed lest any  
 thing should be done by Charles in favour of the duke of Mon-  
 mouth, which might prejudice that remote interest he had in the  
 succession by right of his mother. His question to Sir William  
 Temple, when consulting him on the article of marriage with  
 the princess Mary, shews that, notwithstanding all his promises  
 to Charles, he had not dropt either his correspondence or his  
 dependance on the malecontents in England; and it is natural  
 to imagine, agreeable to the hint given by Sir William Temple,  
 and contrary to the policy of the earl of Danby, that the mar-  
 riage of this prince with the eldest daughter and present heir  
 to the presumptive heir of the crown, would encourage the  
 hopes and enlarge the views of the prince of Orange and his  
 partizans in England, in a manner the most detrimental to the  
 interests of the reigning family. Agreeable to the accounts given  
 by Barillon to the French king, the malecontents in England  
 were divided as to the ends which they proposed in the remo-  
 val of the duke of York from the succession: a large party were  
 for the succession of the duke of Monmouth, some few for a  
 republic, and the remainder for the prince of Orange, who had  
 taken care to secure to his interests all those in the king's coun-  
 cils who were not attached to the duke of York; and in all  
 probability with a view to obtain this prince's assistance to-  
 ward helping forward the bill of exclusion, he might have been  
 flattered with the hopes even by those who were attached to the  
 duke of Monmouth, that his party was much larger than it  
 really was; and certain it is that the prince of Orange thought  
 himself so secure in that important point, that he entered into  
 all the views of the exclusionists, exclaimed against every ex-  
 pedient which was proposed for preserving the right of suc-  
 cession to James as dangerous limitations on the kingly pre-  
 rogative;



Aug. 1680.

gative; and consequently, prejudicial to the right of the royal race, and whilst his father-in-law was amusing himself during his banishment, in pouring out his complaints against the party, and communicating the state of his fears and his hopes to the prince and princess of Orange, the prince was taking the most effectual means to give reality to all those evils which haunted the perplexed and the troubled imagination of James. To the pressing instances made in private to the king and his ministers, Fagell, the pensionary of Holland, a man known to be under the prince's direction, sent a memorial to Charles, in the name of the States-general, which claimed that protection which the king had solemnly promised by the mouth of Mr. Sidney, in case the States would refuse to enter into those measures and engagements into which they were at this time earnestly invited by France, which set forth the extreme dangers to which all Europe, and England in particular, was exposed from the extraordinary preparations now making by France, if the king, by the countenance of that unfortunate disunion which subsisted between him and his Parliament, was prevented from fulfilling his promises, and engaging in the common cause; and for these reasons, in terms almost menacing, it pressed his majesty to consent to the bill of exclusion. The prince of Orange made no scruple to avow his approbation of a memorial which so strongly insisted on the giving up the cause of the duke of York to the welfare of Europe, at the same time that he promised Charles, if matters should be carried to extremities, that is, if he should be reduced to the necessity of giving way to the succession of the duke of Monmouth, that he would assist him with men and money. And to shew that the interests of religion, so often urged as a cloak to cover views of carnal ambition, are seldom considered when they stand in the way of temporal felicity, the Spanish ambassador, at the same time, presented a memorial which urged the king in terms equally strong,

Dalrymple's  
Appendix,  
p. 275.

strong, to comply with all the desires of his Parliament: how-  
 ever, it is to be acknowledged, that the facts contained in this  
 memorial, of the daring and insolent encroachments of France,  
 are such as cannot be read without indignation; and that Spain  
 was actuated in this business by the irresistible principles of  
 self-defence.

It has been already observed, that the Exclusionists had  
 founded their expectations of success on the poverty of the Ex-  
 chequer, and the anticipations on the revenue; on those habits of  
 prodigality, which must render a plan of economy painful, if not  
 impossible, to the king; on the indolent, easy temper of Charles,  
 which had hitherto prevented him from persisting obstinately  
 against difficulties and dangers; and lastly, on that affection  
 which it was generally supposed he continued to entertain  
 for the duke of Monmouth. The duchess of Portsmouth,  
 who had been first amused with the extravagant hopes, that  
 if the bill of exclusion was passed, and the king permitted  
 to chuse his successor, he might, from his regard to her, give  
 the preference to her son, and who afterwards was gained  
 over to the views of the party, by the more substantial pro-  
 mise of one hundred thousand pounds, had assured the leaders  
 of the Exclusionists, that if they would offer the king a round  
 sum of money, he might be brought to pass the bill of Exclu-  
 sion; and, in all probability, this lady, who was better ac-  
 quainted with his majesty's real disposition than any other person  
 about him, was in the right; for the duke of York returned to  
 Scotland in the opinion, that he was entirely abandoned by his  
 brother, all those who appeared to be the most in the king's  
 confidence having given their opinion, that there was a necessity  
 for sending him out of the kingdom; and, on the king's ob-  
 serving, that there was a majority of four in the council in  
 favour of the duke's staying, he said publicly, he must leave the  
 kingdom

Policy of the  
 king.



Ann. 1640.

kingdom then since there are so many people for him. "This makes it believed, writes Barillon, that the king of Great Britain has no mind to support his brother, but to get some advantage to himself, if possible, by abandoning him." It is indeed easily to be perceived, that this conduct of the king, at the same time that it kept the Commons steady to that point on which the opinions of the people were so unfortunately divided, was undoubtedly intended as an item, that he was not immovably attached to the interests of his brother; and that if the Commons had voted a sum adequate to his majesty's necessities and expences, without insisting on further concessions, he might have been brought to sacrifice the interests of a brother to those of a beloved son; or, indeed, to any other pretender to the crown: but by the spirit which now prevailed in Parliament, it was manifest, that the opposition were as much afraid of the king as his brother, and equally desirous to limit the power of the reigning monarch, as to alter the line of succession. The association bill shewed, that they were determined to put themselves and the nation in a posture of defence, both against the intrigues of king and Papist. The earl of Essex had made a motion in the House of Lords for a bill of association in support of certain limitations, discoursed on by lord Halifax; and that some cautionary towns should be put into the hands of the associators during the king's life, to make them good after his death. The Commons also confined themselves to general terms on the subject of a supply; and these circumstances, with the duke of Monmouth's strict connection with the earl of Shaftesbury, induced the king to believe, that the safety of his person, as well as the permanence of his power, depended on his perseverance in opposing the bill of Exclusion; and more especially, as the Cavaliers, and the Devotees to the church, in whom alone he expected support from the pretensions of the country or Whig party, regarded

regarded the rights of succession as inviolable, and consequently would have deeply resented the being deserted in a point in which their prejudices were so particularly affected. The king's views also, in regard to the services to be drawn from the prejudices of this faction, were not confined to the getting rid of the bill of Exclusion; for no sooner did the rancour of party break that unanimity which the terrors of the popish plot at first occasioned, and the nation became divided into two distinct factions, than he entertained hopes of completing that system of arbitrary power, which his father had so unhappily attempted, and which his own prodigality, and the unexpected issue of the second Dutch war, had defeated in the early parts of his reign.

We have seen with what facility Charles adopted the plan of a council obviously intended to check those private intrigues which had proved so prejudicial to the interests of England and the welfare of Europe, and which had involved the king in all the difficulties and disgraces of his reign. We have seen with what facility his majesty was brought to give the nation solemn and public assurances, that he would take no material step in administration without the advice and consent of this council. We have seen with what facility, and with how little scruple, he broke his word thus solemnly given: and we have seen with what dexterity he made use of that knowledge which he had gained in all the vicious and the weak affections of the human heart, to sow divisions among those whose principles tended to the same end, and to prevail, even with the virtuous Essex, to countenance this breach of his word. To carry the appearance of openness and simplicity, and at the same time to preserve a necessary closeness and disguise, are regarded as indispensable qualities in the character of a politician: these excellencies arose to such perfection in the conduct of Charles, that no minister could boast of his confidence any



Ann. 1680. farther than was expedient to make them accessory to his purposes ; and his majesty carried his dissimulation at this time to such a length, that though every man, who conversed confidentially with him, regarded himself as master of his secrets, yet no one was able to discover his real sentiments. The philosopher Hallifax considered him as a convert to his plan of limitations ; the politician Sunderland appeared, among the forwardest, to push on the measure of exclusion, on the opinion that the king would willingly purchase his peace, and regain his credit with the Parliament at this price ; and the dutchess of Portsmouth already enjoyed, in imagination, the sum stipulated for her good offices with the king : but when the matter came to an issue, neither the lively instances of Essex, Sunderland, and Godolphin, nor the tears of the favourite mistress, who threw herself at the feet of her lover, and conjured him, by his own safety, to yield to a power which had brought destruction upon his father for opposing its desires, had any influence with Charles, who depending on the strength of the Cavalier and church parties, and the prospect of concluding a treaty with the French king, in the midst of all these foreign and domestic importunities, in the midst of apparent difficulties and dangers, seemed to be wholly free from care and trouble, and amused himself in ridiculing those who pretended to a greater degree of sanctity than their neighbours ; a policy in conduct as natural in the king, as in the modern Levellers, who have no other way of excusing their obvious corruptions, but by positions which subject all human nature to the law of an irresistible depravity.

Ann. 1681. It was fourteen days after the Commons had sent up their address, before the king and council could determine on an answer ; and when the answer was framed, a difficulty yet remained to find out a proper person to carry it. Sir Lionel Jenkins,

Ann. 1681.  
 kyns, Sir Robert Carr, and Mr. Godolphin, all excused themselves from the ungrateful task; and poor Sir William Temple, who had been tricked out of obtaining any benefit from the promise which had been given of enjoying the office of secretary, in the room of Mr. Coventry, because that Sir Lionel Jenkyns had less sufficiency, that is, more pliability, and had, with difficulty, obtained the large debt due for his several embassies, because he had ventured to tell the king, that it was contrary to the fixed rule in all monarchies to appoint a council, and then not suffer them to give their advice in matters of administration, was now pitched on by his majesty to carry this message to the House. Sir William Temple obeyed; but as the message was quite opposite to the advice which he had given in council, and had been determined in one of the king's private cabals, he was so far ruffled as to tell his majesty, that he did not very well understand why a thing agreed upon over-night in council, should be altered in his majesty's bed-chamber; and that he had not so good a stomach to business as to be content only with swallowing what other men had chewed. As the ministry were in a manner certain that the bill of Exclusion would never pass the House of Lords, Sir William Temple had advised the taking no farther notice of that part of the Commons address than to intimate, that whenever any bills or addresses on things of that nature were brought to his majesty from both Houses, he would give them an answer; but it was the policy of the king, and those who had the honour of his confidence at this time, rather to inflame than to appease: accordingly the Commons were told in his majesty's answer, that he was confirmed in his opinion against the bill of Exclusion by the judgment of the Lords; he therefore had nothing to say to them in answer to their address, but to recommend to them all other means for the preservation of the Protestant religion,



Ann. 1681. gion, in which they had no reason to doubt his concurrence whenever it should be recommended to him in a parliamentary way; and that they would consider the present state of the kingdom, as well as the condition of Christendom, in such a manner as might enable him to preserve Tangier, secure his alliances abroad, and the peace and settlement at home.

Commons irritated with the king's answer to their address.

THIS message, agreeable to the expectations entertained of it at court, set the House in a flame, both against his majesty and the lords. Many severe reflections were made by Mr. Henry Booth on the subject of the dependence of the Upper House on the court; also on the king and his cabal having rejected the bill of Exclusion, without making any proposal of their own in lieu of it; and some votes were proposed as might convince the people, that the Commons had done all they could for the service of their country. Sir Henry Capel declared for the votes proposed by Mr. Booth, and expressly called on the king's servants in the House, to propose their expedients in lieu of the Exclusion bill: but these continuing silent, he went on to observe, that as long as there was a popish successor, there would be a popish interest; that as long as there was a popish interest, the nation would be divided, and, for that reason, useless to their allies abroad; that through the prevalency of Jesuitical counsels, the Commons were reduced to this dilemma, that if they gave money, there was reason to fear that it would be employed to their destruction; if not, that Flanders, and even Holland might be lost; that he spoke so largely and earnestly, because he was doubtful whether he should have an opportunity to speak in that place again; for he was of opinion, that the use of Parliaments must be destroyed before Popery could be established in the nation. Mr. George Vernon insinuated, that though the king seemed now to rely on the judgment of the Lords, he would possibly find,

find, upon enquiry, that they had rejected the bill, because it was known his majesty desired it, and because they were awed by his presence; that there was room to think that they had now more favourable thoughts of it; and that a conference would bring them to an agreement. Sir Francis Winnington admired how the king should know the sense of the Lords in a parliamentary way, so as to authorize the mention of it to them; and that he should take that unparalleled trouble of attending them daily for the good of the Protestant religion; and that for the better regulation of their proceedings, it would be advisable to consider why a bill of that consequence had met with such unprecedented treatment. Upon the issue of this debate, the House passed the following resolutions: first, "That it is the opinion of this House, that there is no security or safety for the Protestant religion, the king's life, or the government of the nation, without passing a bill for disenabling James, duke of York, to inherit the imperial crown of this realm, &c. and to rely upon any other means and remedies without such a bill, is not only inefficient but dangerous. Secondly, That his majesty, in his last message having assured this House of his readiness to concur in all other means for the preservation of the Protestant religion, this House doth declare, that until a bill be likewise passed for excluding the duke of York, this House cannot give any supply to his majesty without danger to his majesty's person, extreme hazard of the Protestant religion, and unfaithfulness to those by whom this House are entrusted. Thirdly, That all persons who advised his majesty in his last message to this House, to persist in his opinion against the bill for excluding the duke of York, have given pernicious counsels to his majesty, and are promoters of Popery, and enemies to the king and kingdom." These general resolutions were followed by votes, ordering several addresses to be prepared and presented to the king, against the



Ann. 1681. the earl of Hallifax, the marquis of Worcester, and the earl of Clarendon, as being the advisers of his majesty's last message, promoters of Popery, and enemies to the king and kingdom; against the earl of Feversham, as a promoter of Popery and the French interest; against Mr. Seymour, for corruption and mal-administration, in the office of treasurer of the navy; and against Mr. Hyde, who, according to Burnet, spoke so vehemently to vindicate himself from the suspicions of Popery, that he cried in his speech, and Sir William Jones, on the score of old friendship, got the words relating to Popery to be struck out of the address against him.

To prevent the large anticipations which had been repeatedly made on the revenue, and to shut out, if possible, all expedients tending to render the king independent of Parliament, it was resolved, that whosoever should hereafter lend, or cause to be lent, by way of advance, any money upon the branches of the king's revenue arising by custom, excise, or hearth-money, should be adjudged a hinderer of the sitting of Parliaments, and be responsible for the same in Parliament; and that whosoever should accept or buy any tally, or anticipation, upon any part of the king's revenue, or whosoever should pay such tally hereafter to be struck, should be adjudged, &c. In return for the zeal with which the Nonconformists had closed with the measures of the Exclusionists, several bills in favour of the Protestant Dissenters, of all denominations, were brought in, two were for ease and indulgence, and one contained the project of a comprehension. The advantages and the utility of this bill were set forth in a pamphlet published by William Penn, the celebrated Quaker, and supported by arguments which were much easier to be opposed than to be answered; and if Burnet is to be believed on a fact which appears very unaccountable,

countable, considering the state of parties, and the strict union Ann. 1681.  
which at this time subsisted between the court and the zealous Episcopals; this bill was brought in by one of the prelatical faction; however, it was not till the end of December, when the close of the sessions was in view, and the friends of the Dissenters, on the supposition that it was done merely with the view of inflaming rather than healing the national divisions, neglected to prosecute it; a conduct which equally answered the end of the public incendiaries, by affording the opportunity of representing their moderation as a contempt for the bill, on the reason that the Dissenters regarded themselves as on the eve of a complete victory.

The Commons, to avoid the affording any excuse for the prorogation or the dissolution of the Parliament, had not entered into any angry conferences with the Lords on the subject of the bill of exclusion; but neither this wary conduct, or the votes against any farther anticipation of the revenue, could baffle the resolution of a prince supported by the ancient and the modern catholic church, and who had the honour of having the grand monarch for his protector. On the 10th of January, the king came privately to the House, with the design of taking the Commons by surprize; however, they got intelligence of his majesty's intention about a quarter of an hour before the black rod came to the door, in which short space of time they passed the following resolutions: That whoever advised his majesty to prorogue this Parliament to any other purpose than in order to the passing the bill for the exclusion of James, duke of York, is a betrayer of the king, the Protestant religion, and of the kingdom of England, a promoter of the French interest, and a pensioner to France: That thanks be given to the city of London for their manifest loyalty to the king, their care, charge, and vigilancy for the pre-



Ann. 1681. servation of his majesty's person, and the Protestant religion: That it is the opinion of this House, that the city of London was burnt in the year 1666, by the Papists; designing thereby to introduce arbitrary power and Popery into the kingdom: That the commissioners of the customs, and other officers of the custom-house, have wilfully broken the law prohibiting French wines and other commodities; and if they shall hereafter wilfully or negligently break this law, they shall be questioned in Parliament: That it is the opinion of this House, that James, duke of Monmouth, hath been removed from his offices and command, by the influence of the duke of York: That an humble application be made to his majesty from this House, for restoring the said James, duke of Monmouth, to his said offices and commands: That it is the opinion of this House, that the prosecution of Protestant Dissenters upon the penal laws, is at this time grievous to the subject, a weakening of the Protestant interest, an encouragement to Popery, and dangerous to the peace of the kingdom. Whilst the last of these resolutions were passing, Sir Edward Carteret, usher of the black rod, brought his summons of attendance; the Commons obeyed, the Parliament was prorogued till the 20th of the month, and some private bills were passed, with a bill to prohibit the importation of Irish cattle\*: but a bill for easing the Protestant Dissenters, and for repealing the persecuting and sanguinary statute of the thirty-fifth of Elizabeth, was, by a mean court-juggle, lost; that is, by the private, but express, command of his majesty to the clerk of the House, it was not presented for the royal assent. By this artifice the Dissenters were still left at the mercy of their enemies; and the king thus steadily adhered to the plan laid down

Parliament  
prorogued.

\* Acts passed: An additional act for burying in woollen. An act prohibiting the importation of cattle from Ireland. *Statutes at Large.*

by

by himself and a private junto of Papists, in the commencement of his reign, viz. to create an union of interest between the recusants of all denominations, on the subject of a general toleration, and that no legal indulgence should be granted the Protestants in which the Papists were not comprehended.

CHAP. V.

*Policy of Lewis.—Parliament dissolved.—Attempt to fix a libel on the Exclusionists.—Parliament at Oxford.—Commons proceed against the earl of Danby.—Fitzbarris's depositions.—Debate on the bill of exclusion.—Impeachment of Fitzbarris.—Impeachment rejected by the Lords.—Resolutions of the Commons.—Dissolution of the Parliament.—Consternation of the Exclusionists.—King's declaration.—Policy of the king.—Triumph of the court.—Addresses.—Persecution of the Dissenters.—Trial and execution of Fitzbarris.—Proceedings against Shaftesbury, College, and other individuals of the popular party.—Trial and execution of College.—Indictment and acquittal of the earl of Shaftesbury.—Rigorous proceedings of the court.*

**W**ITH a true spirit of Machiavilian policy, at the same time that Lewis gave directions to Barillon to encourage the duke of York in the frantic resolution he had taken to oppose his brother and the Parliament, in the way of arms, he gave him orders to strengthen Charles in the resolution of keeping a firm and bold conduct to his subjects; and also to assure the patriotic party in Parliament, that he would protect the liberties of the nation. A letter of this monarch to his ambas-

Policy of Lewis.

sador,



Ann. 1661. - fader, dated December 13, 1660, whilst it expressed the highest satisfaction at the divisions which at this time subsisted in England, bids him assure the patriots, that it is not his intention to suffer their liberties to be hurt; and when a probability arose, that the king by giving way to the duke of Monmouth's pretensions, might restore harmony between every part of the legislature, Lewis, without hesitation, sacrificed his enmity to his interest; and the ambassador had further instructions to bring about a junction of the French and the prince of Orange's interest, in defence of the royal family of England. Barillon on this point differed from his master, and regarded the succession of the duke of Monmouth as a favourable circumstance, on the probability that it would keep up those divisions, and that spirit of party in England which had hitherto proved so favourable to the ambitious views of France: but Lewis, who was a much deeper politician than his minister, and who had experienced the power and strength of England during the period of the interregnum, dreaded no event equal to the enlarging the system of English freedom; and Barillon, either from complaisance or conviction, acknowledged that Lewis was perfectly in the right to prevent the duke of Monmouth from serving as an instrument of re-union between the king and his Parliament, or to establish in his person so weak a monarchy as at the bottom to be only a republic. Though the conclusion of a treaty had been some time suspended by the timidity of the two ministers, Sunderland and Hyde, yet the negotiation had still been kept open between Barillon and Charles, who was always determined to submit to every condition which the king of France should impose rather than give up any of those essential points which might lead to a limitation of his power, and render him more dependent on the pleasure of a Parliament. Agreeable to this resolution, a correspondence of friendship and confidence was revived between the royal brothers; the duke of York pushed

of the negotiation with a vehemence natural to the warmth of his temper and his critical situation, and the king made no scruple to sacrifice to his resentment the lords Sunderland, Essex, and Salisbury, who were dismissed from the council-board; nor could the loyalty of Sir William Temple preserve him from a similar fate, because he was suspected of an attachment to the prince of Orange, and because he had declared his dissatisfaction at all measures which tended to render matters between the king and his Parliament desperate. Ann. 1681.

This conduct, united to the unexpected prorogation of the Parliament, was not calculated to appease those apprehensions which filled the heart of every honest man on the present alarming situation of affairs. The Cavaliers, with the republican earl of Halifax at their head, began to throw out hints of deciding the controversy between the king and his people, in the way of arms: such regulations were made in the city for the security of its inhabitants, as plainly intimated the highest jealousy of the designs of the court; and the well-grounded fears of the party, were greatly increased by the king's roughly answering to the city's humble supplications, that his majesty would be graciously pleased to suffer his Parliament to sit at the time appointed, that the sitting of Parliaments was none of their business, by dissolving the Parliament by proclamation five days after, without assigning any other cause than that it was his resolution to meet his people, and have their advice in frequent Parliaments; and by issuing out writs for a new Parliament to meet at Oxford. Sixteen Peers, with the duke of Monmouth at their head, petitioned the king against an innovation calculated to increase the terrors of the public, and to inflame the passions of the people: they intimated that the friends of religion and liberty were not safe to assemble in a place so remote from the great seat of the Protestant interest, and where they might

Sir John Resby's Memoirs.

Parliament dissolved.



Ann. 1681.

might be massacred even by the popish soldiers in the king's guards. The king's resolutions were too well fixed, and his designs too deeply laid, to give any attention to the petition and advice of the Peers; and the real or the pretended apprehensions of the popular leaders, became so prevalent that they attended the king's summons at Oxford, accompanied with their servants in arms, and by numerous bands of their partizans: the four city members in particular were followed by great multitudes wearing ribbons, in which were woven the words, "No Popery, no Slavery." The king had his partizans and his guards regularly mustered, and thus the assembly at Oxford carried the appearance of a tumultuous Polish diet, rather than of a regular meeting of the English legislature.

Attempt to  
fix a libel on  
the Exclu-  
sionists.

A few days before the king went to Oxford, one of those mines which had been laid for the popular party, blew up, and, like Dangerfield's conspiracy, recoiled on the court. Fitzharris, the son of an Irish knight, and a professed Papist, who had been long retained as a spy by the dutchess of Portsmouth, and her woman Mrs. Wall, and who, for the early intelligence he had given of certain libels on the dutchess and the king, had been rewarded with two hundred and fifty pounds, entered into a concert with Everard, a Scotchman, who had been an evidence in the popish plot, to write a severe libel, in very gross terms, on the king and the duke of York. Everard had sufficient keenness to perceive at once the intention of Fitzharris, and sufficient address to ensnare the deceiver in his own toils: he undertook, without hesitation, to write the libel, and then communicating the whole matter to Mr. Smith and Sir William Waller, he placed them in such a manner in his chamber, that they might hear the whole conversation at the next interview, which terminated in the offer of a reward of forty guineas, and a

monthly pension from the French ambassador; and, as a security Ann. 1681. against all danger, Fitzharris left with Everard a paper of instructions for his further proceedings, written in his own hand. Thus armed at all points Everard finished the work, and giving one copy to Fitzharris, reserved another for himself, when, accompanied by Sir William Waller, he carried it immediately to the king, whilst Fitzharris took the round about way of calling upon Mrs. Wall, by whom he was advised to resort with his libel to lord Clarendon, or secretary Hyde; and whilst he was in the pursuit of these ministers, he was taken up by a warrant from the council, examined, and sent to the Gate-house. In revenge for this rough treatment from those whom he had long professed to serve, Fitzharris turned short upon the court, and offered Cornish, the sheriff, to make a greater discovery of the plot than any person had yet done. Cornish very judiciously acquainted the king with this particular. Fitzharris was first examined by the secretaries and privy counsellors; and it was by the desire of the prisoner alone, that he was attended by alderman Clayton, and Treby the city recorder, to whom he gave a long relation similar to what he had given before to the secretaries, of a project to kill the king, in which the duke was concerned, and to whom he insinuated, that he was glad the evidence was in the hands of men who would not stifle it.

NOTWITHSTANDING the severe invectives which had issued forth in copious streams from the press and the pulpit against the conduct of the Commons in the two preceding Parliaments, the principles on which that assembly had acted were so well approved by the public, that the elections went generally in favour of the popular interest, and in many places it was given as an instruction to the members to stick to the bill of exclusion; and it is to be observed, that the partizans of govern-

ment



Ann. 1681.

Seasonable  
Address.Parliament  
at Oxford,  
March 21.

ment in a manner acknowledged the necessity of such a reformation, as they asserted was intended by the House of Commons, in declaring in one of their publications, that the state of affairs in England were so altered since the reign of Charles I. that his present majesty had the sole power of the sword, and the very being of the Parliament at his mercy; and indeed the manner in which the king now accosted the Parliament had so much the air of the master, that it is plain he was sensible of all those advantages which he had procured from the party zeal of the first national assembly which had met after the restoration of the monarchy. Instead of those gracious expressions which had formerly wheedled the Commons out of large sums of money, and what is yet worse out of their power and importance, the king, assuming an authoritative air, told the Parliament, on their meeting at Oxford, that the unwarrantable proceedings of the last House of Commons was the reason of his parting with them; for that he, who would never use arbitrary power himself, would never suffer it in others: that whoever calmly considered the assurances he had renewed to that last Parliament, and what he had recommended to them, his foreign alliances, the examination of the plot, and the preservation of Tangier, and did reflect upon the strange unsuitable returns made to such propositions, might rather wonder at his patience, than that he grew weary of their proceedings: that by calling this Parliament so soon, he let them see, that no irregularities of Parliament should make him out of love with them, by which means he gave them another opportunity to provide for the public security, and had given one evidence more, that he had not neglected his part: that as for the farther prosecution of the plot, the trial of the Lords, &c. he omitted to press them, as being obvious to consideration, and necessary for the public safety; but as to what he had so often declared touching the succession, he should not depart from it: but that to remove all reasonable fears of what might arise from

from a papish successor, if means could be found that in such a case the administration should remain in Protestant hands, he should be ready to hearken to any such expedient, by which religion might be secured, and monarchy not destroyed. As a censure on the proceedings of the last House of Commons, his majesty advised the present assembly to make the known and established laws of the land the rules and measures of their votes: a conduct which his majesty said he could the more reasonably require, because he was resolved to make them the rule of his own.

WILLIAMS, who had maintained with much zeal and vigour the authority of the last House of Commons, was again chosen into the office of speaker: and this high spirited Englishman, to shew that his masters were rather roused than awed by the lofty tone of his majesty's speech, declared before the throne, that the Commons had elected him to be their speaker, to manifest to their sovereign and the world, that they were not inclinable to change.

We are informed by that great party writer Mr. North, that whilst the attention of the House was occupied in this ceremony and the taking the oaths, an expedient was fallen upon to sound the king on the subject of the duke of Monmouth's succession: that lord Shaftesbury was introduced into the royal presence, on the pretence of having received a letter, written in an unknown hand, containing a proposal for settling and composing all differences between the king and the Parliament: that the king rejected the project of settling the crown on the duke of Monmouth in lieu of the bill of exclusion, as it had passed the Commons, as a thing contrary to conscience, justice, and nature, and most heroically asserted, that he would much sooner part with his



Ann. 1681. A life than any of his prerogatives, or betray the laws and religion of England, or alter the true succession.

Commons proceed against the earl of Danby.

An ineffectual petition from the earl of Danby, because opposed by the earl of Halifax, and several other courtiers, who dreaded this Lord's ascendancy over the king, revived the resentment of the Commons against this nobleman. They appointed a committee to inspect the former proceedings relating to his impeachment; and the next day, on the report made to the House, they issued an order, that a message should be sent to the Lords, by lord Cavendish, to remind them, that the Commons had formerly, by their speaker, demanded judgment at the bar of their House against the said earl, and to desire them to appoint a day to give judgment accordingly. The next step taken by the Commons was, to demand a conference with the Lords on the manner in which the bill for repealing the persecuting and sanguinary statute of the thirty-fifth of Elizabeth had been lost the last Parliament; and thence they made a sudden transition to the case of Fitzharris, when Sir George Treby produced the following depositions taken by him and Sir Thomas Chyten, viz. That the declaration of indulgence was made to introduce the popish religion: that the war with Holland was made for the same end: that Madame came over from Dover on the same design: that Fitzharris, and several other Papists, were officers in the army encamped at Blackheath: that it was the common intelligence and opinion among them, that the said army was raised to bring in Popery: that on the disappointment by peace, the deponent was told by father Parry, that the Papists, who had been engaged in these councils, were resolved to destroy the king, and, if they failed, the queen would do it; and, in the year 1678, assured him, that the business was near; that the Modena envoy had offered the deponent ten thousand pounds

Fitzharris's depositions.

to kill the king; and when that was done, the soldiers of the army in Flanders and in France were to come over to destroy the Protestant party: that money was raising in Italy for recruits and supplies: that after this there were to be no more Parliaments: that the duke of York was privy to all the mischief: that Kelly at Calais owned himself to have been one of the murderers of Godfrey, and that it was done much in the manner that France had sworn: that De Puy, the duke's servant, said the murder was consulted at Windsor: that father Patrick said the king of France was to subject Ireland to the former owners the French: that libelling the king and government was necessary to distaste the king, and make him jealous of his people; and that the opinion of Patrick made him correspond and concur with Everard in the libel.

THOUGH it is asserted by the royalists of these times, that the depositions made by Fitzharris were impudent and infamous falsehoods; and that even the popular writer Burnet calls the whole of his evidence a fiction: yet the very valuable collection of papers, lately published by Sir John Dalrymple, proves, that there were many very important parts of the depositions true; and I think the whole of them strengthens the probability of those conjectures which I have ventured to make in the preceding chapter, viz. that the conspiracy on foot, to re-establish Popery in England, was known to the Papists in general; and that the exuberant parts of the several depositions were taken from warm expressions of resentment, which fell from the mouths of individuals, on the sudden peace with the Hollanders, and on the king's falling short of his engagements in declaring himself a Papist, or in the taking any steps towards the performance of articles, which he had undoubtedly stipulated with France, and which he had promised the party: a circumstance farther corroborated by the surprise which the duke of York



Ann. 1681.  
Dalrymple's  
Appendix.

Debate on  
the bill of  
exclusion.

testified to Barillon that his brother should venture to go such lengths against the five popish lords who were deep in his secrets.

The examination into Fitzharris's evidence was a prelude to a debate on the important question, which had so long occupied the attention of contending parties. It was opened by Sir Thomas Clayton, under the sanction of having received directions from his constituents, the citizens of London, and was seconded by Lord Russell, who declared he lay under the same obligations to the county of Bedford. In the course of the debate, Erskine, one of the king's ministers, proposed that the duke should be banished during life five hundred miles from England, and that on the king's demise the next heir should be constituted regent, with regal power. This expedient, which left the duke the title of king, whilst it deprived him of all advantages connected to that character, was regarded as a Jesuitical frame, and accordingly treated with contempt. It was said, that if one army should be necessary to maintain the exclusion, four would be as necessary to maintain this expedient; and those who proposed it would have the same power to let the duke in as to keep him out. The spirit of party had been too long on the ferment not to have contracted the highest degree of acrimony; and the firm opposition of the court to the bill of exclusion, confirmed the patriots in the belief, that it was the only means of salvation, and served only to render them more united and more determined. The debate ended like all the preceding ones on this subject, and it was declared, that no method but the bill of exclusion could be properly adopted by the House, because no other method could give any satisfaction to the people whom they represented.

Impeachment of Fitzharris.

As the king, to cut off all correspondence between Fitzharris and the popular party, had removed him to the Tower, the

Commons,

Commons, in the way of a counter-stratagem, i. e. to take the prisoner out of the hands of the crown, voted an impeachment against him; and to mark their contempt of the dependence of office, they also voted that secretary Jenkyns should carry it up to the Lords. On these proceedings of the Commons, the court took the alarm; Sir Robert Sawyer, the attorney-general, signified to the Lords, that he had his majesty's order for prosecuting Fitzharris at common law. The lord chancellor, by citing an example which was not at all in point, endeavoured to show that it was in the option of the House, either to accept or reject impeachments, when preferred against commoners, and the courtiers, turning patriots on the occasion, expressed a religious regard for trials by jury, and expatiated on the danger of any innovations on that sacred right. If the sheep should hesitate to follow the advice of the wolf in matters of personal security, it would undoubtedly be deemed a sagacious caution in the animal; and though deviations from the plain rules and letter of the law are always dangerous precedents, and never to be used but on occasions of urgency, yet it must be acknowledged, that if an impeachment from the Commons did not lie against a commoner, the court might avoid all impeachments, by employing commoners only in the offices of state and law; and that the particular case of Fitzharris concerned the welfare of the public, both as to the motives for writing the libel, and as to his depositions relating to the conspiracy for the re-establishment of Popery; and also that his person and his cause was much safer in the hands of the Commons than in the hands of the crown: however, on the putting the question, the Lords voted to remit the proceedings against Fitzharris to the ordinary courts of justice. A protest was entered against this vote by the duke of Monmouth and eighteen other noblemen, and as this was the first instance of a refusal of the Lords to receive an impeachment from the Commons, it set the Lower House

Ann. 1681.

Impeachment rejected by the Lords.



Ann. 1681. House in a rage, which subdued all the resolutions they had formed to avoid, if possible, any high and angry contention with the Lords; and even Sir Thomas Lyttleton, who had hitherto acted the part of a moderator between the two factions, lost his usual coldness, and declared, that the Lords would be a court or not, as best suited their present purposes; and that by the dismissing of the impeachment he saw no farther use of a Parliament. According to Sir William Jones, the Lords were so flagrantly in the wrong, that reasoning upon the case was unnecessary: the bishops were severely reflected on, as the foundation and means of all the disappointments which arose in the Upper House, and in particular as having helped to decide a point of such importance, on which they had no right to vote. These observations were followed by others equally keen and severe; and in the conclusion of the debate, one bill was brought in to associate his majesty's Protestant subjects; another to banish the most considerable Papists; and the Commons also voted that it was their undoubted right to impeach any Peer or Commoner for treason, or any other crime or misdemeanor: that the refusal of the Lords to proceed upon such impeachment, is a denial of justice, and a violation of the constitution of Parliaments: that in the case of Fitzharris, for the Lords to resolve that the said Fitzharris should be proceeded with according to the common course of law, and not by way of impeachment at this time, is a denial of justice, a violation of the constitution, an obstruction to the farther discovery of the plot, and of great danger to his majesty's person and the Protestant religion: that for any inferior court to proceed against Fitzharris, or any other person laying under an impeachment in Parliament, on any crime for which he or they stand impeached in Parliament, is a high breach of the privileges of Parliament.

Resolutions  
of the Com-  
mons.

THE

THE opportunity so impatiently waited for, of a quarrel between the two Houses which was likely to be attended with such heats, was not overlooked by the king; but as his majesty in all the prorogations and dissolutions of Parliaments, had acted contrary to the opinion and advice of his privy-council, great pains were taken, even to an unworthy degree of dissimulation, not to let any symptom of a dissolution escape, to prevent, says Mr. North, bad language, or worse, in passing votes; and that his majesty should not be troubled with too many opposers with their dark objections: however, according to the assertions of Ferguson, a popular writer, of as warm a complexion as Mr. North, the dissolution was somewhat hurried by the intelligence received at court, that Fitzharris's wife and maid were come to Oxford to discover what they knew of the plot, on which a sudden resolution was taken to put an immediate stop to the career of the Commons. The secret was so well kept that not one of the popular members had any intimation of the design; and Sir William Jones was interrupted in the middle of a long harangue on the subject of the votes relating to Fitzharris's affair, by the unexpected appearance of the black rod with his message of summons to the Commons to attend the king in the House of Peers.

Dissolution  
of the Par-  
liament.

THE party, who by a variety of means had been flattered into an assurance that the king was not so averse to the bill of exclusion as he pretended, and that his necessities would reduce him to a compliance with their own terms, were deprived of all spirit by this unexpected measure, which convinced them that, notwithstanding the treacherous protestations of Lewis, the king had yet resources to supply his wants independent of Parliament; and that during the interval of these assemblies, the authority of the crown, assisted by the efforts of a fierce and unrelenting faction, would have every advantage over a

Conserva-  
tion of the  
Exclusion-  
ists.

body



Ann. 1692. body dispersed and dismissed. Full of these dark reflections, and unprovided with any plan or system of conduct to put into immediate execution on such an exigence of affairs, they hurried out of town in a manner which fully showed their apprehensions of the violence of those councils by which the king was governed, to be equal to what they had represented in their several votes and addresses. The king, on his part, was not less apprehensive that resentment and despair might prompt some of the most daring of the Exclusionists to have recourse to force, and make some attempt on his person: both parties, therefore, equally hurried out of Oxford; but to use the language of the royalist writers, his majesty, after he had with a blast of his breath reduced the representatives of the Commons of England to a state of insignificance, and scattered his foes like the leaves of autumn, took coach and drove to Windsor, from which place he issued out a royal declaration, which was to be made public not only by the press, but by the official in every parish-church in England. In this publication his majesty sets forth, that with exceeding great trouble he had been brought to dissolve the two last Parliaments with so little benefit to the people, and that his intentions had been, to comply, as far as would have consisted with the very being of the government, with any thing which could have been proposed to him for preserving the established religion, the liberty and property of the subject at home, and supporting foreign alliances: he sets forth the unsuitable returns of the House of Commons, viz. their addresses in the nature of remonstrances, their arbitrary orders for taking persons into custody for matters which had no relation to their privileges; their strange illegal votes, declaring divers eminent persons enemies to the king and kingdom, without any order or process of law, or hearing their defence; their votes, that whoever should lend any money upon the branches of the revenue, &c. by which, instead of giving the king assistance, they had endeavoured

King's declaration.

heavoured to disable him, to expose him to all dangers which might happen, at home and abroad; to deprive him of the possibility of supporting the government, and to reduce him to a more helpless condition than the meanest of his subjects. Their vote, that the prosecution of Protestant Dissenters, upon the penal laws, was a grievance to the subject, an encouragement to Popery, and dangerous to the power of the kingdom, whereby they assumed to themselves a power of suspending acts of Parliament; these unwarrantable proceedings, his majesty said, were the occasion of his parting with the first Parliament; that having assembled another at Oxford, he gave them warning of the errors of the former, and required them to make the law of the land their rule, adding withal, that though he could not depart from what he had so often declared touching the succession, yet to remove all reasonable fears which might arise from a popish successor, if means could be found that in such a case the administration of the government might remain in Protestant hands, he was ready to hearken to any expedient for the preservation of the Protestant religion without the destruction of monarchy: notwithstanding all which, no expedient could be found but that of a total exclusion, a measure to which he was nearly concerned, in honour, justice, and conscience, not to consent, and he did believe, that if he had in the last Parliament at Westminster, consented to a bill of exclusion, that the intent was not to have rested there, but to have attempted some other great and important changes; that the business of Fitzharris, impeached of high treason, and by the Lords referred to the ordinary course of law, was on a sudden carried to that extremity by the votes of the House of Commons, that there was no possibility of a reconciliation, whereby an impeachment was made use of to delay a trial, directed against a professed Papist, and charged with treasons of an extraordinary nature, that nevertheless his majesty would not have the rest-



Ann. 1681.  
1681.

less malice of ill men persuade his subjects, that he intended to lay aside the use of Parliaments, for that he did declare, that no irregularities in Parliament should make him out of love with them; and that by the blessing of God, he was resolved to have frequent Parliaments, and both in and out of Parliament, to use his utmost endeavours to extirpate Popery, and to redress the grievances of his good subjects, and in all things to govern according to the laws of the kingdom.

Mr. Hume asserts, that, contrary to the harsh and malignant drawing of bishop Burnet, there is a full contrast and opposition between the characters of the emperor Tiberius and Charles the Second: and that the emperor seems as much to have surpassed the king in abilities, as he falls short of him in virtue: but here we must observe, that Mr. Hume, laying aside his usual partiality for all princes, does not, in the respect of capacity, do the English monarch justice. Charles extricated himself from the difficulties into which his ill conduct and treachery had involved him, with an address which merited the appellation of a Machiavel; and neither Tiberius or Sejanus could have conducted the clue of dark and crooked policy with more skill than was manifest in the conduct of this prince, in the whole of his contest with the exclusionists. The facility with which the king adopted plans, calculated to restrain the malignancy of those secret intrigues which had involved England and the whole continent of Europe in confusion, and the dexterity with which he rendered them subservient to his designs, are to be seen in his majesty's management of the council, constituted by the advice of Sir William Temple. As the terror of Popery and popish influence had taken too deep a root in the minds of the people to give way to the flourish of Sir Roger l'Estrange's pen, the popish plot was zealously adopted, and its prosecution repeatedly recommended to the two Houses, who

Policy of the  
king.

were graciously assured, that his majesty would comply with any reasonable expedient which might be offered for the security of the Protestant religion from the power and influence of a popish sovereign; yet notwithstanding all these gracious assurances, Sir William Temple, whose prejudices all lay on the side of the court, saw enough to conclude, that there was no sincerity in his majesty on this head. Sir William pressed in vain that expedients might be formed into propositions, and offered to the Commons in lieu of the bill of exclusion: and from the king's answer to Sir William, when he proposed to stand for the town of Cambridge, in order to forward court-measures in the Oxford Parliament, both Sir William and Lord Sunderland concluded, that his majesty had fixed his resolution, and left off all thoughts of agreeing with his Parliament, and, consequently, that the assembly at Oxford had been called together in the view only of putting a false gloss on the king's measures, and exposing the conduct of the Commons to the animadversions of the court-party and the censure of the public. A refinement in policy yet more circumstantially proved by the negotiations carried on between the king, Barillon, and the duke of York, for rendering the king independent of Parliament, and securing the duke's succession, at the very time when it was pretended that his majesty would go such lengths for the producing an union between the three legislative powers, as to consent to the effectual dethronement of the duke, and vesting the prerogatives of royalty in the person of a regent, and that whilst the earl of Halifax, the king's confidential minister, was displaying all his flowers of rhetoric and strength of argument in setting forth the superior advantages or limitations on the power of a popish sovereign to the remedy proposed by the patriots, and that all the king's servants supported the measure, and declared, that his majesty would consent to any expedient which tended to secure the Protestant religion, and satisfy the apprehensions of the people.

Temple's Memoirs.

Dalrymple's Appendix.



Ann. 1681. (short of a total exclusion) the prince of Orange was assured by secretary Jenkyns, that the king would never consent to any limitations on the royal authority. Thus we find that these condescensions, so much boasted in all his majesty's speeches, and in his address to the public, were only political snares to corrupt the popularity of the Commons, to furnish matter for the abusive pen of Sir Roger L'Estrange, and for those virulent invectives with which they were persecuted by the high flyers in the church and state: but however deep and subtle this plan of policy, it must be allowed, that its success was owing to the want of penetration in the popular leaders; for had the Commons, on the sanction of the king's frequent protestations, adopted any of those expedients which were occasionally flung out by his ministers, or had they proposed any plan of limitation, which might be more agreeable to their ideas of safety, or had a strict unanimity of councils taken place between the two Houses, the deceiver might have been taken in his own snare, and the party preserved from the sanguinary prosecution which followed the triumph of their enemies.

In answer to the king's declaration, containing reasons for his conduct in regard to Parliaments, the popular party set forth a pamphlet entitled, "A modest vindication of the two last Parliaments." This pamphlet asserted a right in the people to annual Parliaments, and also to a suitable answer to their petitions and bills, before any dissolution should take place. It appealed to the words of the writ of summons, and the usage of all ages against the new method of assembling and dissolving Parliaments, without the advice of the privy council. It put the public in mind of a very subtle composition of the same kind as the king's declaration, which was found among Coleman's papers, and intended to be published, with a view to deceive and corrupt the judgment of the public when the popish influence should prevail, to the dissolution.

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dissolution of the Long Parliament, and it shewed by some Gallies to be found in the declaration, and some shrewd observations concerning intelligence on the subject given by the dutches of Mazarine \*, and the declaration being read to a gentleman by Barillon three days before it was shewn to the privy council, that his majesty acted by the same instruments, and was governed by the same councils and counsellors as had distinguished his reign from the commencement of the first French treaty.

In apology for the zeal of the Commons on the subject of Popery, it declared, that if these assemblies had gone too far, they had been misled by his majesty's speeches and declarations, in which the prosecution of the plot was warmly recommended as necessary to the preservation of his majesty's person, in which his majesty had professed the highest zeal for the security of the public, and in which he had often shewn himself desirous of a dispensing power in favour of nonconforming Protestants. In answer to that part of the declaration, which set forth the king's gracious expressions at the opening the last Parliament at Westminster, it asserted, that whatsoever the House of Commons addressed for was always denied: that there was no surer way to favour at court than the receiving a censure from the representative body of the people: and that the government might have subsisted, though some of the gentlemen put out of the commission of peace for their zeal against Popery had been restored, or Sir

\* The dutches of Mazarine, whose imprudence and ill-fate had deprived of all advantages from the immense fortune which she received from her uncle the cardinal; resided in England the greater part of Charles's reign, and was supported by a large pension from this monarch; and either out of a mistaken notion of gratitude to her benefactor, or from that spirit of intrigue which possesses almost all women, she commenced one of the plotters on the side of the court, and was consequently highly in the disfavour of the popular party.

George



And, 1691. George Jeffries had been removed, or the statute of the thirty-fifth of Elizabeth had been repealed.

On the demand of supplies of foreign alliances, it pleaded the examples of all Parliaments, not to give money in maintenance of leagues till they were made acquainted with the particulars of them; it represented the Spanish alliance, mentioned in the king's speech, as a mere pretence to raise an army in England: if otherwise, the league was said to be in itself pernicious, since it tended to embroil England in every quarrel or disturbance that internally, or externally, might trouble any part of the Spanish monarchy; and that this obligation being reciprocal in case of any commotion happening in England, arising from attempts to change the religion or government of the country, his Catholic Majesty was to give aid in so pious a design, and make war upon the English with all his forces by land and sea. On the subject of assistance demanded for the preservation of Tangier, the Parliament, it was asserted, had given his majesty to understand, that they were ready to grant it on a reasonable security, that it should not be misemployed to augment the strength of their popish adversary, and to increase their dangers. On the accusation of presenting remonstrances rather than addresses, it was said, that no English reader had any criminal idea to affix to that word; but if the accuser meant, by a remonstrance, a declaration of causes and reasons of what was done, it stood justified by his majesty's own example, who had vouchsafed to declare the causes and reasons of his actions to the people. On the head of arbitrary orders, for taking persons into custody for matters not relating to privilege, the fact was said to be mistated, for if the privilege of Parliament was concerned when an injury was done to any particular member, it was much more concerned when men struck at Parliaments themselves, and endeavoured to wound the constitution. Several

prece-

precedents from the time of Edward the Sixth to the third of Charles the First were quoted, to shew that the Commons, in particular cases, had committed in matters not relating to privileges and it was alleged, that the Commons would have betrayed their trust, if they had not asserted the right of petitioning, before shaken by an illegal and arbitrary proclamation. Ann. 1691

These authorities to be found in every reign, from the time that Parliaments were of any importance, were quoted as proofs that the votes declaring several persons to be enemies to the king and kingdom, were strictly constitutional; nor could any history or record shew, that ever they were called illegal or unpatriamentary. The best of the English princes had, with thanks, acknowledged the care and duty of their Parliaments in telling them of the corruption and folly of their favourites, whilst the disorderly reigns of Henry the III. &c. ought to serve as landmarks to warn succeeding princes from preferring secret counsels to the wisdom of their Parliaments. Authorities from the reign of John, Henry the IVth. and Henry the VIth. were brought as precedents on the votes against anticipations, &c. and it was asserted, that the revenue of the crown ought not to be considered as private patrimony, designed only for domestic uses and the pleasure of the king, for it was in its own nature appropriated to public service, and consequently could not, without injustice, be divested or anticipated; and in case of any extraordinary accident which occasioned an extraordinary supply, the only constitutional resort was the Parliament, that the Commons, instead of committing any trespass by their votes, had restrained them more than was necessary, having only specified those branches of the revenue given by Parliament to the king, and which by the very words of the acts amounted what they did, and the Parliament which gave the bills were so far from thinking



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thinking the king had any right in it, that they empowered him to dispose of it by a special clause in the act. *the first act of the*  
*of parliament which contained in substance had, as the*  
 by MANY solid reasons, relating to the circumstances of the times, were given in defence of the vote in favour of Protestant Dissenters: it was asserted, that nothing could be more disingenuous than the interpretation of that vote, nor was it conceivable how the declaring an opinion could be understood to be a power of repealing laws; but the ministers remembered that not many years ago the whole nation was alarmed with the arbitrary assumption of such a power, and therefore thought to attract attention by charging the like attempt on the Commons. On the unpardonable disobedience of the Oxford Parliament in touching on the business of succession, it was said, that two or three unknown minions were not to take upon them like the Lords of the Articles, to prescribe unto an English Parliament on what they should treat; and if it was lawful in itself to propose a bill to exclude the duke of York, such an unwarrantable signification of the king's pleasure could never make it otherwise; that his majesty never once seemed to doubt whether it was not in the power of the legislature to exclude his brother, but only objected his private sense of honour, justice, and conscience, which ought to give way to his public obligations; and if gratitude contained the sum of all obligations whatever, what did not his majesty owe to his Protestant subjects who had recalled him from a miserable helpless state of banishment, placed him on the throne, increased his revenues above what any of his predecessors had enjoyed, and given him larger sums in twenty years than had been bestowed on all the kings since Edward I. France and Sweden were quoted as examples, to shew that a difference of religion was regarded by all states as a disqualification for government; and on the objection that the exclusion could not be maintained but by a standing army, it was retorted  
 thinking on

on the ministers, that nothing could be more ridiculous than such an argument in their mouths, who had often endeavoured to establish a standing army, who had raised two with no other design, and who, since the disbanding them by act of Parliament, had increased the guards to such a formidable degree that they were become a standing army. On the head of limitations, darkly and dubiously intimated in the king's speech, and afterwards repeated in the declaration, it was said, that his majesty knew they signified nothing. Those who more openly proposed a regency, at the same time declared publicly, as well as privately, that the duke would not consent to it, nor to any unusual restriction of the royal power; nay, one of his own professed vassals was so ashamed of the cheat, that he openly renounced it: all therefore which could be meant by it, was to delude both the Parliament and people.

THE charge of great and important changes was acknowledged to be true, if these expressions meant that the Parliament would have besought his majesty to take the government out of the hands of the duke and his dependants, and no longer suffer the marks of favour and honour to be placed on such as the nation had judged to be promoters of Popery and pensioners of France: these were indeed great and important changes, but such as it became Englishmen to believe were designed by the Parliament; such as would be designed and pressed by every Parliament; and such as the people would ever pray might at last find success with the king: without such changes as these the bill of exclusion would only have provoked without disarming the enemy, and the money paid for it would have been made use of to hasten the duke's return. On the business of Fitzharris it was asserted, that he had been employed by some very great persons, to set up a counterfeit Protestant conspiracy; and that his libel, filled with the most subtle insinua-



Ann. 1681. tions and sharp expressions against his majesty, was to have been conveyed by unknown messengers to those persons who were to be betrayed; and that the finding those libels upon them was to be held a confirmation of the truth of a rebellion, which the conspirators had provided witnesses to swear was designed\*: that the heinous nature of the crime, and the greatness of the persons supposed to be concerned in it, made the Commons believe that none but the Parliament had sufficient authority to go through with it, and that there was the more cause for jealousy in that case, because Fitzharris, when inclined to repentance, and beginning to confess, was, without any visible cause, taken out of the sheriff's custody and put in the Tower. After several arguments tending to prove, that treasons not specified within the act of the twenty-fifth of Edward the III<sup>d</sup>. were left to the jurisdiction of Parliament, and several shrewd observations on the confounding the friends to legal monarchy with men of republican principles, it is asserted, that the ministers had already given occasion to say, that the use of Parliaments were thrown aside; for though the great danger of the kingdom, and the necessity of the aid and counsel of Parliament, had been owned in all his majesty's speeches and declarations, yet he had been prevailed on to dissolve four in the space of twenty-six months, without making any use of their advice; and as on the one hand there was no room to hope that the court would ever love any Parliament better than the first of those four, in which they had so dearly purchased such a number of fast friends; so on the other, there was good reason to suspect that their designs must be ill indeed, which could shock such a Parliament. On the king's promise of calling frequent Parliaments it was said, that when the duke of York was no longer prime minister, or rather protector of these kingdoms, when love to the religion and the

\* This was part of Fitzharris's evidence to Clayton and Treby.

laws was no longer a crime at court; when the word loyal, that Ann. 1681. is, faithful to the laws should be restored to its old and true meaning; when commissions should be filled with hearty Protestants, and the laws executed in good earnest against the Papists; when the discoverers of the plot should be suffered to give their evidence; when the courts of justice were steady, not avowing a jurisdiction one day, and disavowing it the next; when no more grand juries should be discharged, nor witnesses hurried away when they should inform grand juries; when it was seen that something else was meant by governing according to law, than putting the laws in force against Protestant Dissenters, that were meant against Papists, then the nation might depend upon frequent Parliaments, with all the blessed effects of pursuing parliamentary counsels: but while so many little emissaries were employed to sow and increase division, as if the ministers had a mind to make his majesty the head of a faction, who ought to be equally the head of all his people; while the same differences were promoted which gave rise to the late troubles, and which were once thought fit to be buried in an act of oblivion; while the popish interest was so plainly countenanced; whilst every pretence of prerogative was strained to its utmost height; whilst Parliaments were used with contempt and indignity, and their judicature and all their highest privileges brought in question in inferior courts; there would be but too good cause to believe, that the ministers and favourites very little considered the use and progress of the late troubles, and had but little desire to prevent a relapse; and that as they had never yet shewn regard to religion, liberty, and property, so they would be little concerned to see the monarchy shaken off, if themselves might escape the vengeance of public justice.

THOUGH it is impossible for so short an abridgement to give the reader an adequate idea of the merits of this piece, yet it



Ann. 1681.

Triumph of  
the court.Dalrymple's  
Appendix.

will be found necessary, for the right understanding the state of the controversy between the two factions, and whether the Parliament or the sovereign had the best reason to expect the support of the people. The illustrious pens of Sidney, Somers, and Jones, were all employed in the composition of this pamphlet, which, for spirit and judgment, is superior to the publications of either party; but what the king's faction wanted in argument was supplied with power and noise. His majesty had now emancipated himself from the restraint of Parliament, by the conclusion of the long depending treaty with the French king, by which it was stipulated, that Charles should receive a pension of two millions of livres for one year, and five hundred thousand crowns for two others, on the consideration that he should disengage himself by degrees from the Spanish alliance, and should take measures to prevent Parliaments from counteracting his engagements. Charles, who had learnt caution on the disgrace he had suffered in the person of lord Danby, would not permit this treaty to be put into writing; and though the earl of St. Alban's, on the merit of giving it a beginning, was gratified with a present from his Most Christian Majesty, yet lord Hyde was the only minister who had sufficient profligacy, or sufficient courage, to be trusted with the conditions; and even the dutchess of Portsmouth was kept out of the secret, on the pretence that should it ever become public, and the dutchess be blamed for it, she might have it in her power to assert, with a safe conscience, her innocence.

THAT spirit of faction naturally arising from discordant principles in the civil system, and aggravated by an illiberal principle in religious government; that spirit of faction, which from the reign of Henry VIII. has kept the nation in continual agitation; and although it has, at some periods, carried a favourable aspect to civil liberty and national glory, yet, in reality, has preserved a steady course towards slavery, and public ruin

never

never appeared with a more malignant countenance, or black-  
 ened the English annals with a more disgraceful conduct, than  
 on the dissolution of Charles II's last Parliament, in the year  
 1681. The Tory party grown, more rancorous by the mutual  
 provocations which accompany a long contention for power, and  
 elevated with the belief which, on account of some very extraordi-  
 nary arrangements in the king's domestic œconomy, generally  
 prevailed, that his majesty was never to summon another national  
 assembly, exceeded all the bounds of decency, common decorum,  
 and common sense, in their triumph over the depressed spirit of  
 the Whigs. Principles, of the most slavish nature, were every  
 where enforced from the pulpit, and adopted in numerous ad-  
 dresses; where the king was flattered in his present measures,  
 and congratulated on his escape from Parliaments: every day,  
 from the middle of May, to the January following, produced an  
 accession of these servile offerings, in which the party expressed an  
 ambition of resigning into the king's hands all those privileges  
 which their gallant ancestors had purchased with their blood.  
 The vice-chancellor, in the name of the University of Cambridge,  
 after violating the act of oblivion\*, in a comparison between  
 the Exclusionists, and the party in opposition to Charles I. and  
 arraigning with virulence the conduct of both, assured his ma-  
 jesty, that the University did still believe and maintain, that the  
 kings of England did not derive their power from the people,  
 but from God; that to him only they were accountable: that it  
 belonged not to subjects either to create or censure, but to hon-  
 our and obey their sovereign, who came to that station by a  
 fundamental hereditary right of succession, which no religion, no  
 law, no fault, nor forfeiture could alter or diminish. In some of  
 the addresses it is asserted, that it was as unreasonable for his  
 majesty's subjects to direct him in the particular of calling Par-  
 liaments. The king had set this example in his declaration  
 liaments,

Addresses.



Ann. 1681. liaments, as it would be in the government to confine the subject when they should sow or reap their corn; and so fond was the court of a strain of flattery, to such a degree gross and fulsome, that it occasioned the lord Halifax to say, that the petitioners for a Parliament had spit in the king's face, but the addressers had spit in his mouth; that mariners, watermen, and even apprentice boys, were pressed into the service, and tutored to vilify Parliaments, and place their whole trust and confidence in the all-sufficiency of royal power. Such indeed was the complexion of the times, that individuals ventured to declare publicly, that the king was unwise not to raise an army, and govern by the sword; and his majesty was called upon in print to make his Parliaments tremble, like his predecessor Henry VIII. to shew himself as absolute over his people as the French king; to tell his people that *sic volo* was *sic jubeo*; and to take off the head of any man who should dare to open his lips to contradict it; but, above all, not to suffer any man to sit in Parliament who had acted himself, or whose father had been an actor, in the rebellion.

It has been represented by some writers, that the depression of the Whig party was so great, as to prevent them from making any opposition to that tide of barbarous servility, which threatened the destruction of every thing valuable in the constitution, or rational in the opinion and manners of the people: but this was not entirely the case; the city of London, highly to their honour, sent up a petition, in which they plainly told his majesty, that it was not his declaration to hold frequent Parliaments, which could contribute any thing to the security of their religion, their lives and liberties, and the composing of mens' minds; but the actual sitting of a Parliament, and the provision of necessary laws. In the answer given to the petitioners, there is a mixture of art and insolence, which is highly characteristic of the politics which prevailed in this reign; but notwithstanding

ing the rough treatment these petitioners met with, the thanks of Ann. 1691. the county of Middlesex were given to those members, who had served them in the Oxford Parliament, for their good intentions in favour of the people; also to those peers who had asserted the ancient rights of the Commons of England, by protesting against the Lords rejection of the impeachment of Fitzharris: and a petition was sent up to the throne, for the speedy calling, and effectual sitting of a Parliament. A pamphlet also, entitled, "An impartial Account of the Nature and Tendency of the late Addresses," was published by the party, in which the professions of the Tories were treated as the mere noise of faction, without meaning or sincerity; in which it was asserted, that the great cities and corporations had declined the service, as also the benchers of the Inns of Court: that the most active instruments on this occasion were bankrupt tradesmen, disgraced attornies, or pragmatistical priests; and in which his majesty was advised, if he placed any real confidence in the unmeaning professions of such an impotent rabble, he would do well to call a Parliament, that they might shew the greatness of their power and interest by more solid services. These are evidences sufficient to prove, that the spirit of the party was not, at this time, so entirely depressed, as some writers have represented: but whatever specious colouring they might think proper to put on the state of affairs, it is evident, that the glory was really departed from Israel; that as usual, the voice of the people was changed with the change of times; and that the king's independent revenue, assisted with a pension from France, the divided state of national opinion, the rancour of faction, the interested servile principles of the clergy, the iniquity of the laws, and the profligate corruptions of the bench, were more than sufficient to enable the crown to crush its opponents, and to overturn those feeble bulwarks to the freedom of the constitution, which had escaped the rage of the Cavalier Parliament.

**THE**



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Prosecution  
of the Dissen-  
ters.A short histo-  
ry of the life  
and death of  
the act made  
35th of Eli-  
zabeth, &c.Trial and ex-  
ecution of  
Fitzharris.

THE Dissenters who were at this time peculiarly obnoxious to the government, for having aided and abetted the schemes of the Exclusionists, were the first who experienced the power and resentment of the court. In some of the addresses they had been severely reflected on; the king also had been thanked for his not repealing the act of the thirty-fifth of Elizabeth; had been petitioned to put it in execution: and the clergy, who had now entirely dropped the worn-out subject of Popery, turned the fury of their zeal entirely against their nonconforming Protestant brethren, who were now prosecuted without mercy, on the authority of a statute, which was temporary in its first formation, and which was never revived in a manner to give it a proper legal existence.

AFTER the turning out of the civil and military offices every individual who did not, with zeal, go into the humours of the court, the next step taken by the government was the deterring all knaves from entering into any service but that of the court; by an example of vengeance on Fitzharris. To prevent the clamour which would have arisen on one delinquent sitting in judgment on another, Scroggs, who lay under an impeachment of Parliament, was dismissed from his office; and Pemberton, a man of a low and dissolute life, whose study and first practice in the law, had been in a gaol, was put in his place, care having been first taken to ascertain the measure of his courage, i. e. whether he would venture to try Fitzharris in defiance of the vote of the Commons. This was not all the management necessary to surmount the difficulties which lay in the way of the court: Waller, one of the principal witnesses, had been a member of the same Parliament which had impeached Fitzharris, and had been one of the majority in the minatory votes; after the impeachment had been rejected. Everard, and Smith also, were closely connected with the opposition; and they all had declared publicly,

publickly, that they would not appear as witnesses against the prisoner, but in support of the impeachment before the Lords. However, Waller was drawn in to desert the defence of the authority of Parliament, by a protection to skreen him from his debts; and on the promise of a marriage with Chiffinche's daughter; Everard and Smith were likewise prevailed on to come in; and the next and last difficulty, viz. a doubt arising in the jury, in regard to their power of trying the prisoner, after the concluding vote of the Commons, was easily subdued, by the judges taking upon them to decide the question in the affirmative. The writing of the libel was clearly proved upon Fitzharris; but a very material question arose, whether in this transaction he was to be considered by the jury as a cheat or a traitor. Fitzharris, on motives of safety, assumed the first character, and asserted, that he was a spy of the court; that he had carried the libel to the dutchess of Portsmouth; and he called upon the dutchess, and her woman Mrs. Wall, to do him the justice to own, that he had received two hundred and fifty pounds from the king for his services in that capacity. Mrs. Wall, on the pretence of charity, allowed the fact; and Titus Oates deposed, in behalf of the prisoner, that Everard had acknowledged to him, that the libel was of his own composing; that it was to have been sent in penny-post letters to the leaders of the Commons; that the court had a hand in it; and that the king had given Fitzharris money, and would give him more, if he met with success. Colonel Mansel and Mr. Hunt deposed, that Sir William Waller had told him, that though, when he made Fitzharris's libel first known to the king, his majesty had given him a great many thanks, yet he had not long taken his leave before two worthy gentlemen informed him, that the king complained, that Waller had broken all his measures; and however improbable it may appear, that Charles should be so



Ann. 1681.

Indiscreet as to utter his private sentiments in so open a manner, yet so cautious were the court, lest any thing should transpire of disadvantage to the cause, that they did not oblige Waller to answer to the question; though he was appealed to by Hunt for the truth of what he had advanced. To these strong circumstances in favour of the prisoner's plea, Mrs. Wall acknowledged, that on the Thursday before he was apprehended he came to her at nine at night, and desired to be introduced to his majesty: and by all the assertions advanced on both sides, and the matters of fact which appeared at the trial, it is plain, that Fitzharris had no design to publish the libel in order to stir up the people to rebellion; yet the jury, though at this time supposed to be under the direction and influence of the Exclusionists, without much hesitation, brought him in guilty of treason; a circumstance which Mr. North affects to consider as solely arising from a blunder committed by the sheriffs in the return of the pannel, and admitting, by mistake, a false brother: but it is not probable, that one man should, in the short space of half an hour, carry so important a point against eleven; and, in all probability, the verdict arose from an apprehension in the jury of the virulence and violence of the court faction, and the dread of being involved in the accusation of having, on the views of party, formed a connection with so abandoned a villain as Fitzharris, who, finding his life in the king's hands, made another abrupt turn, retracted his former evidence with regard to the popish plot, and attempted to save himself by charging lord Howard, of Escrick, with being the author of the libel. Lord Howard was taken up, examined, and committed to the Tower, where he continued a prisoner for some time; though the grand jury, on the contradictory evidence which had been given in by Fitzharris's wife and her maid, had refused to find the bill against him.

THE want of success which attended Fitzharris's imposture, rendered it ineffectual towards saving his life: but though the court thought proper to deprive this wretch of existence, in order to give more authority to his recantation, they were determined to make a full use of the short remainder of his days, to exculpate the government, and blast the credit of the Exclusionists. One Hawkins, the minister of the Tower, and chaplain to the dutchess of Portsmouth, undertook the management of this business; and, on the hopes of a pardon, or at least of a handsome maintenance for his wife and children, prevailed with the prisoner to sign a confession, in which he affirmed, that lord Howard had acquainted him of a design to seize upon the king's person, and to carry him into the city, where he was to be detained till he had conceded to the desires of the party; that one Haynes, and he Fitzharris, were privy to the design, and had several meetings upon it with lord Howard, who, for their encouragement, had assured them, that the settlement of Ireland was to be broken; that the additional revenue of the bishops were to be taken off; and, together with the estates of forty-nine other persons, were to be shared among the party; that all Fitzharris's evidence, in regard to the popish plot, had been extorted from him, by the suggestions and artifices of Treby the recorder, and Bethel and Cornish the two sheriffs, who had promised him a pardon from the Parliament, and a restoration of his father's estate, if he would make a plausible story to confirm the plot, and criminate the queen and the duke of York; and that these suborners had assured him, that they brought instructions from the Lords and Commons, who met the same day in order to address the king in his behalf. As every other individual was denied access to the Tower, Hawkins made so good a use of his opportunity and his attendance on the prisoner in the cart, and at the time of his execution, that he kept him firm to his confession. It was immediately published after his death,



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and for a short time afforded much exultation to the court-party. However, an express reply, intitled *Truth Vindicated*, was set forth by the city magistrates, Clayton, Treby, Bethel, and Cornish, which contained a clear confutation of Fitzharris's imposture, and exposed the subornation, deceit, and treachery of Hawkins: but the circumstance which altogether confounded the triumph of the courtiers, was the dextrous iniquity of Fitzharris, who had out-witted the sanctified tempter, and found means, by a cool and determined villany, to secure to the objects of his affection that maintenance which he little expected from the honour of the court. Fitzharris appears to have been one of those exalted or perfect knaves which, according to Machiavel, is as difficult to find in human nature as the perfect wise man in the Stoic creed. He made his first appearance in the character of a spy for the court; but his converse with the male-contents not furnishing him with sufficient materials to satisfy his employers, he formed the project of the libel, and when caught in his own snare, he endeavoured to preserve his life by rendering his villany subservient to the views of the Exclusionists, who were at this time supported by the power of the Parliament. When through the weakness of one party and the policy of the other, he found it impracticable to procure a pardon, he entered with determined coolness into measures equally fraudulent, for the securing a provision for his family: he furnished Hawkins with such a confession as should entitle his wife to claims on the court, and, lest the memory of the service should die with it, he clandestinely supplied her with such other papers as should enable her to make her own terms with the male-contents. Mrs. Fitzharris wanted neither craft nor spirit to make the most of the materials with which she was furnished by the double-dealing of her husband. Some letters were shewn about, one of which was dated the very morning on which he suffered, where he informs

forms her in what manner he was practised on by the court, Ann. 1687. through the delusive hopes of a pardon, to bear false witness against the Exclusionists. These letters the court found it necessary to purchase, by the bribe of a pension; but so many people, says Burnet, had seen them before the purchase was made, that this base practice in the government turned much to the reproach of their proceedings: however, Hawkins, for the part he had acted in the business, was rewarded with the deanery of Chichester; but as no farther use could be made of Waller, his protection was withdrawn as soon as Fitzharris's trial was over, and being abandoned by a party whose cause he had first betrayed, he found it necessary to quit the kingdom, and soon after died.

In the midst of that zeal which all parties, and even the king himself thought it expedient to manifest for the full discovery of the popish plot, Ireland was not forgotten. It was natural to imagine, that in this kingdom where the Papists exceeded the Protestants six to one, some traces might be found of a concurrence in that general conspiracy in which it was supposed the party were engaged in this kingdom. Agreeable to directions from the English council, rewards were published in Ireland to any one who would bring intelligence, or become witnesses against the Papists; and at length one Fitzgerald appeared, followed by Ivey, Haynes, Sanfon, Dennis, Bourke, and two Macnamaras. These witnesses were immediately sent over into England; but though they were men of infamous characters, and had not sufficient address to invent any falsehoods which could properly be connected with the plot said to be carried on by the Papists in England, yet they were patronised and recommended by the earl of Shaftsbury. The court at first gave them so little countenance, that they would have starved in indigence, if they had not been supported by the party: but the opportunity now offered



Apr. 1681. offered of rendering them subservient to the design on foot of turning the plot on the Whig faction. These witnesses, who had been decried by the court as the most infamous of men, were now taken into their pay, on the service of bearing false witness against their Protestant patrons; and, to establish the credit of their testimony, Oliver Plunket, the titular primate of Ireland, was condemned and executed on the charge of inviting twenty thousand French to invade the kingdom, and land at Carlingford, and the enlisting seventy thousand men to join them. On the article of inviting the French to invade Ireland, it is to be observed, that when the earl of Essex was in France, in the year 1667, the queen-mother of England informed him, that the Irish had sent over agents to the court of France, desiring money and arms, with some officers, and undertook to put that island into the hands of the French: but it is also to be observed, that Plunket was a man of a peaceable disposition, and at variance with the Tory, or high-flying Papists in Ireland; and his country was so well convinced of his innocence, that on the certainty of their acquitting him, he was sent for over to England, and, contrary to law and equity, was tried in London, and executed at a time when the popish plot was in such disreputation, and the king in such a plenitude of power, that no excuse on the plea of state-necessity can be alledged for the not exerting the prerogative of mercy in favour of this aged prelate, who died protesting his innocence of every part of the charge which had been laid against him.

Proceedings  
against  
Shaftsbury,  
College, and  
other individuals  
of the  
popular  
party.

THE earl of Shaftsbury, whose activity and even violence had rendered him an object of peculiar aversion to the court, was one of the first against whom the battery of Irish evidence was erected: but previous to the attack on this nobleman, John Rouse and Stephen College, two of the most active agents for the party, and regarded to be deep in the earl's political secrets, were apprehended

ed on a charge of treason, and committed to the Tower; and Ann. 1681. when Whitacre the solicitor for the prisoners moved for bail, or a speedy trial, it was urged by the attorney-general, that the Tower was a peculiar precinct, and neither in the jurisdiction of London or Middlesex, and, consequently, no commission of oyer and terminer for either could reach it: however, they should be ready enough with their indictments when they had an equal jury to try the cause.

It was pretended, that a conspiracy had been entered into to seize the king's person at Oxford, and detain him in confinement, till he should make certain concessions, and as poor College's zeal for the Protestant cause and freedom of parliament, had excited him to appear in this city, armed with sword and pistol, it was determined either to make him an example, or to extort some confession from his fears, which might affect the life of Shaftsbury. To prevent that advantage which the prisoner might draw from the abilities and determined spirit of his solicitor, the day before the indictment was brought against him, a warrant was issued out by secretary Jenkyns, and served upon Whitacre by two messengers, Whitacre demanded a sight of the warrant, insisted on the calling a constable, as the law required, and on being carried to a city-magistrate, according to the privileges of a citizen and inhabitant of London, on being brought before the lord-mayor, he complained, that he had been assaulted and seized by two men who called themselves messengers, under colour of a warrant from secretary Jenkyns, on the pretence of high treason, and contrary to the charter of London, which provided, that neither the king nor his ministers should execute any warrant or judicial process in that city, except by the magistrates thereof; that for these reasons he claimed the protection of the city; and that if any thing appeared against him not bailable, he might be sent to the common gaol of Newgate, according to law. Fear is always



Ann. 1681. always found to be an equal corrupter in human conduct with interest. The lord mayor's courage was not of the same temper with that of Whitacre's, nor equal to the duties of his office: he had the meanness to refer this plain case to the court, to be held that day at the Old Bailey, and to call in the assistance of the recorder, who confessed that the prisoner had the law on his side, yet refused to allow him the benefit of it without a previous consultation with the chief-justice; and this magistrate declining to give any opinion on so ticklish a subject, the prisoner was resigned to the messengers, who carried him off in triumph. This base desertion of the party did not affect the conduct of Whitacre, who, when brought before a committee of the council, gave them to understand, that he well knew why he was at that time taken into custody; that as to any questions which might be put to him, he should answer none, unless they were stated in writing, and unless they then appeared to be such as were reasonable; and if they thought proper to commit him, the place appointed by the laws for the reception of prisoners of his rank and circumstances, was the county gaol, and not the Tower; where, however, he was carried and kept a close prisoner for five months, notwithstanding several petitions for his removal, and that nothing of a criminal nature was produced against him.

After these necessary precautions the bill was preferred against College; but as the court had not yet got the election of the city sheriffs into their hands, the jury were not men of a stamp to compliment the crown with the breach of a sacred trust, and to deliver up the blood of the citizens to the vengeance of party. Notwithstanding two arbitrary rules which had been made by the bench, that they should receive the evidence of the witnesses in open court, and that they should ask no questions but what the court approved, they insisted on examining the witnesses a second time by themselves, and separate from each other; and

and having with difficulty prevailed, they returned the bill *ij. Ann 1681.* on the plea that some of the witnesses had ingenuously confessed they were under a corrupt influence, and others had notoriously contradicted the evidence they had given in open court. The jury, having thus extricated themselves from the impropriety of rejecting the bill, on the infamous characters and needy circumstances of witnesses, who had been received as good men, against the Papists, or of arming the court with powers to sacrifice an equal number of Protestants to policy of state, and the resentment of the party; the whig faction, as they were termed, congratulated themselves with having escaped the snare of the enemy: but their triumph was short-lived; the court had another game to play, which proved more fatal to College than if they had been suffered to proceed to a trial; for as the treasonable facts alledged against him lay in the counties of Oxford and Middlesex, the king by law might prosecute in either: an indictment was therefore preferred to the grand-jury for the Oxford assizes, where lord Norreys, a thorough courtier, was sheriff of the county, and where it was expected that the prejudices of the inhabitants would lead them to any extravagancies which might tend to mortify the Whigs, and gratify the rancour of faction: however, we are told by Hawles, a lawyer, who has commented largely on the extraordinary trials in this reign, that the king's counsel, to ensure success, posted to Oxford with the several witnesses, and were privately shut up with the grand-jury for some time; and that one of the counsel boasted at court of his services, and the cunning management he had used to prevail with the jury to find the bill. There is reason to believe that the court found some difficulty in this business, because, on the pretence that it was neither fair nor expedient to hurry on the trial during the same assizes, it was postponed for a month, when a special commission of oyer and terminer was issued for the purpose, to lord Norreys, lord-chief-justice North, and the puisne judges, Jones, Raymond, and Levins. Hawles, the lawyer

Trial and  
execution of  
College.



Ann. 1681. before mentioned, in enumerating the singular favours of the court to a man of such low degree, as that he was lodged in the Tower, was allowed the assistance of counsel, and was tried by an extraordinary commission, observes, that this transcendent goodness in the crown was only to make sure work of him; for the king's counsel had so ordered the matter, that the gaoler and messenger who were to conduct College from prison to the court, should carry him into a house in his way thither, and take away all the papers which had been given him by his counsel in the Tower.

UNDER the confusion arising from this incident, was poor College brought into court, and put upon the conscience of a mercenary and factious jury for his life, the indictment being according to the common form for treason, but circumstantially for designing to seize the king's person at Oxford; and mixed with an accusation of certain words spoken, as that there was no good to be expected from the king, that he minded nothing but beastliness, and that he had endeavoured to establish Popery and arbitrary power. College, who carried himself with great temper and spirit under the base usage he had met with, refused, for a long time, to plead till his papers were restored, urging, that they contained directions for his defence; that he understood the indictment was faulty; that possibly legal objections might be made to it, which, for want of skill in the law, he might lose the advantage of. These objections, advanced by the prisoner, were over-ruled by the bench; and though counsel had been assigned him on his petition, he was to have no more benefit of their assistance than his memory could furnish; and serjeant Jeffries asserted, that a lawyer acting in the capacity of a solicitor for a person indicted of high treason, stood himself in the same predicament. It is to be observed, that whilst this controversy lasted, the papers in dispute were examined by the attorney-general and his brethren, and, finally, handed up to the bench, where part of them was declared libellous, and therefore

therefore to be suppressed; and part of them contained in Ann. 1691. instructions for the prisoner, as to matters of law which he was to have no benefit of, except what he could derive from memory: however, it was at last determined to indulge the prisoner with the perusal of his papers whilst the court adjourned to dine; but if any credit is to be given to Hawles, this was only a pretence to give the king's counsel a farther opportunity to inspect the papers, and to consider of the method of his prosecution by them, which, on this inspection, was altered from what they at first designed; for observing by the prisoner's papers how he intended to make the witnesses against him contradict themselves, they did not produce such witnesses as were instructed to concur in the evidence of the same matter, but produced only such as were instructed to give evidence of distinct matters: Hawles farther intimates, that the adjournment was made at the instance of the king's counsel, and that these whisperings with the lord chief-justice were over-heard; and it is to be observed, that the small concession above mentioned was not made till the prisoner had submitted to plead not guilty, and put himself upon trial, which was admitting the indictment, and foregoing all the advantages his instructions might have enabled him to make against it, viz. that treason and misdemeanor cannot be joined in one indictment, lest the jury in finding some part of the indictment proved, though not the material part, should bring in a verdict of guilty in general, which extends to every article of the indictment, and thus the jury may be deceived, and the prisoner in danger.

DUGDALE, Haynes, Turberville, and Smith, Sir William Jennings, and a Mr. Masters, with Stephens and Atterbury, messengers, were the witnesses produced against the prisoner. Dugdale began the charge with an evidence of villifying words spoken of the King, at several times, at Oxford and London, by the prisoner, to himself alone; that he shewed the witness several



Ann. 1681.

ral scandalous libels and pictures, and said he was the author of them; that he had a silk armour, a brace of horse-pistols, and a pocket-pistol and sword; that he said he had several stout men to stand by him; that he would make use of them for the defence of the Protestant religion, and that the king's party were but a handful to his party. Stevens and Atterbury, messengers, swore the finding the original of a scandalous picture, called the Rarce Shew, in the prisoner's chambers: John Smith the speaking scandalous words against the king, and the having armour, which, when the prisoner shewed to the witness, he said, "These will destroy the pitiful guards of Rowley," meaning the king; that the prisoner moreover said, he expected the king would seize some of the members of Parliament at Oxford; which, if done, he would be one who should seize the king: that Fitzgerald, at Oxford, had made his nose bleed, but before long he hoped to see a great deal more blood shed for the cause; and that if any, nay, if Rowley himself came to disarm the city, he would be the death of him. Haynes swore, the prisoner said, unless the king would let the Parliament sit at Oxford, they would seize him, and bring him to the block; and that the city had one thousand five hundred barrels full of powder, ready at an hour's warning. Turberville, that the prisoner expressed a wish, that the king would begin with him and seize him, and that he came to Oxford for that purpose. Mr. Masters, that the prisoner justified the proceedings of Parliament in 1640, and said, that in cutting off the king's head, they had done nothing but what they had just cause for; and that the Parliament at Westminster was of the same opinion; that the witness called the prisoner colonel, in mockery; and that he returned answer, Mock not, I may be one in a little time. Sir William Jennings, the last witness, swore as to the fighting with Fitzgerald, and the words about the bleeding, with some difference of expression, viz. I have lost the first blood in the cause, but it will not be long before more will be lost.

THE prisoner's defence consisted of a solemn and explicit denial of every treasonable circumstance sworn against him, and in a charge of subornation against the witnesses; in support of which he brought such matters against them all except Jennings and Masters, the first of whom he acknowledged to be a gentleman and a man of honour, as shewed that they were the most abandoned of the human species, and unfit to enter any court of justice, unless in the character of culprits at the bar. It is remarkable concerning Dugdale, that having been charged by Oates with the giving out that he was poisoned, when his malady was, in truth, no other than a disorder common to debauchees, the witness put the whole credit of his testimony on the truth of what he had advanced, and yet the fact was proved upon him before the king and council, by Dr. Lower, who had prescribed to him on that occasion; a circumstance which entirely deprived the court of his farther services in the way of evidence. In regard to Turberville and Haynes, Oates produced a petition which they, with one of the Macnamaras and others, had presented to the lord-mayor, aldermen, and common-council of the city of London, for a contribution in their favour; and by way of inducement, setting forth that the Papists had not only so far wrought on the necessities of some, as that for a present supply, they had shipwrecked their consciences, but that they were tampering with, and labouring to corrupt others of the most considerable witnesses: and to prove that the party in power had effectually succeeded in their attempts on these corrupt and needy men, a cloud of witnesses were produced on the side of the prisoner, whose evidence, as far as the nature of the case could possibly allow, amounted to a positive proof, that the witnesses in behalf of the crown had sworn falsely against the prisoner: and it is observable, that whilst he was labouring to prove, by the evidence of Everard, that the Papists designed to make a Presbyterian or Protestant plot, and that Justice Warcup had endeavoured to suborn evidence



Ann. 1681.

dence in favour of that design, the chief-justice so far lost his temper and his prudence as to interpose, by saying, There is nothing concerning a Presbyterian or Protestant plot in the case: on which College shrewdly inferred, that if there was no Presbyterian Protestant plot in the case, nor any other person in confederacy with him, it was as impossible he should have any design to seize the king, as it was improbable he should own it: adding, "Now my lord, this man, meaning Everard, was solicited to come in for an evidence of such a plot." This assertion of College was affirmed by Everard, who declared, that justice Warcup would have persuaded him to have sworn a Presbyterian plot against certain lords; and that Haynes had also acknowledged to him that necessity had driven him to swear against Protestants.

COLLEGE was a carpenter, or joiner, by profession, and on these circumstances has been treated with peculiar contempt by that faction to whose prejudices and rancour he fell a victim; but the whole of his conduct, during the trying scene which we have narrated, serves, amongst a variety of instances, to prove, that the endowments of parts, spirit, and resolution, are not incompatible with the humblest station; and that there is an excellency in genuine good sense, which can rise superior even to the deficiencies of education. Though the prisoner had the countenance of the whole court against him, as well spectators as counsel and judges, he maintained his ground with an undaunted spirit: he detected the sophistry of the bar and the bench; nor did the manifest partiality and unfairness with which he was treated, occasion him so far to lose either his temper, his understanding, his courage, or presence of mind, as to give his adversaries any advantage over him: on the contrary, his observations were pertinent, and a peculiar air of innocence and integrity accompanied all his assertions. "I have a soul, said he, which must live to eternity, either in joy or misery:

misery: I act according to these principles, and, I hope, I have Ann. 1681, some assurance of salvation when I die. I would not call God to witness to a lie for a thousand lives: I declare in the presence of God Almighty, that, as to these things which have been sworn against me, I never had such a thought: the witnesses have sworn desperately against me; and it hath appeared, I think, by the evidence of very credible persons, that they have contradicted one another: it hath been proved that this was a design, that they have been tampered withal, that they complained they were in poverty, that they wanted a maintenance, and they did confess they were tempted to swear against Protestants; and now it is plain they have closed with it, and begin with me." After touching on the improbability of discovering treasonable designs at first sight to such a fellow as Haynes, if any such had been conceived, pleading an incapacity to enter into all the particulars of the evidence, and signifying his reliance on the court to supply all deficiencies, College acknowledged, that out of a zeal for the Protestant cause he had been active for the support of it; and that thinking it a shame that the Irish witnesses, who pretended that they came over to serve it, should want bread, he had collected some small charities for them. The prisoner then proceeded to give a circumstantial account of his first interview with Haynes; he fixed a falsehood on Dugdale; and being called upon to proceed with a comparison of the evidence on both sides, he declared, that he was not equal to the task, not having heard above half what was said, nor could he write above a quarter of it. Then addressing himself to the bench, "My life and your souls are at stake, said he; to do me justice, therefore, I hope you will take notice of what I had not an opportunity to write down." He repeated his assertions of innocence to the jury, and besought them not to suffer themselves to be frightened or flattered out of their integrity: "Do according to your judgments and your consciences, said he; you are to be my judges.

3.



Ann. 1681. judges both as to law and fact; you are to acquit me or condemn me, and my blood will be required at your hands."

THE solicitor-general was not behind hand in taking all the advantages which the privilege of having the last word with the jury gave him over the prisoner: and in summing up the evidence, he declared, that the crime of high-treason was proved against College by a conspiracy to seize the king at Oxford; which conspiracy the prisoner declared he was in by shewing arms for that purpose, and by coming down to Oxford with that intent. College, in a kind of transport, vehemently denied that the conspiracy had been proved, and received a reprimand from the bench for speaking out of turn. To convince the jury of the propriety of bringing College in guilty of treason, serjeant Jeffries made use of the following extraordinary argument, That the king was concerned in their verdict; their religion was concerned; the plot, which was so much agreed to by all Protestants, was concerned: for if Dugdale, Smith, and Turberville were not believed, it would trip up the heels of all the evidence and discovery of the popish conspiracy\*. And when the lord chief-justice came to act his part, he laid down two considerations which he said were to be observed in all cases of the like nature, viz. the force of the evidence and the truth of the evidence; upon the first of which he asserted what has been

\* The supporting thus the credit of these witnesses, and in particular of Dugdale, shews, that the malice of the court was superior to every consideration of reputation, or common policy; for among Dugdale's depositions against the Papists, is the following: That Ewers, the Jesuit, told him that Coleman had complained to the duke of York, that he had put him upon business which would hang him; on which the duke answered, that he would secure his life, if he would hold his peace: but on Coleman's assuring his royal highness that he had already confessed all to Sir Edmundsbury Godfrey, the duke replied, that this ought not to trouble him, for care should be taken to prevent Godfrey from doing any mischief.

asserted

asserted by all prerogative lawyers, and denied by all those of the popular side, and which, if true, destroys almost all the advantage of juries, viz. that it related to matter of law, and therefore was the province of the bench only. What related to fact, he acknowledged to be the province of the jury; and, after putting them in mind, that by the act of the 13th of Charles, words manifesting treasonable intentions were made equal to overt-acts in the statute of the 25th of Edward III. he proceeded to illustrate the force of the evidence, and very artfully began with the words sworn by Masters and Sir William Jennings; which, however, he declared did not amount to treason, but they shewed that the prisoner had some very extraordinary thoughts in his heart concerning divisions, quarrels, &c. On the truth of the evidence, the lord chief-justice, yet more artfully, referred the jury to their own notes, as not caring to speak by memory: yet, having passed over the declaratory part of the prisoner's defence as flourishing and popular things, observed, that Dugdale and Turberville, who were the most material witnesses relating to what was spoken in Oxfordshire, had the least said against them; professed he did not remember any thing of consequence was said against them, except by Oates, whose single affirmation ought not to have any weight against the oaths of three men; added, that it was very improbable, that after witnesses had sworn a thing, they should voluntarily acknowledge themselves to be foresworn; and then pronounced, that Dugdale and Turberville were two witnesses to the full matter of the indictment, and two witnesses to what was done in Oxfordshire, which satisfied all the considerations of the law. Thus, says a very judicious commentator on the transactions of this reign, it happened most unfortunately for the prisoner, that the lord chief-justice remembered just enough to convict him, and not one tittle in his favour; and that, in his reasonings, he pointed out the improbability of the

Ann. 1681,

Ralph's  
Review.



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witnesses confessing themselves perjured, without bestowing one thought on the improbability before urged by College, that he should expose himself to a capital prosecution by saying such things to such persons.

COLLEGE, maintaining his spirit to the last, made the proper observations on the partiality of the bench: "It is not fair dealing," said he, "with a man for his life, because the witnesses against him, upon their oaths, deny the things the witnesses for him prove; therefore the witnesses against him must be believed, and the witnesses for him disbelieved, when yet the witnesses for him are ready on their oaths to maintain what they have advanced in his favour." He also observed, "That Oates charged each of the witnesses singly, and there was but the single denial of each of them to his charge:" and when Mr. Justice Jones signified, that he neither should nor could add any thing to what the chief-justice had said, and the other judges, by their silence, had testified the same implicit acquiescence, the prisoner called upon his lordship to examine his notes, and affirmed, that he would find much more evidence against Dugdale and Turberville (\*) than he had repeated.

\* Elizabeth Hunt affirmed, that Dugdale had said, after College was apprehended, that he did not believe College had any more hand in any conspiracy against the king than the child unborn; and that he would as willingly have given an hundred pounds as spoken what he had, and that he had nothing to say against College which could touch his life. Yates affirmed, that Dugdale did say, he believed College to be an honest man, and stood up for the good of the king and the government: and it is to be observed, that the petition of Turberville, Haynes, and the Macnamaras, to the lord-mayor, aldermen, and common council of the city of London, had been delivered by the petitioners to Willmore, who had been foreman of that jury which had brought the bill against College ignoramus at London, and was to have been one of his witnesses, but was prevented by a seasonable

com-

Ann. 1691.  
 The prisoner's appeal was made in vain: the chief justice continued to declare, that he could remember no more; and the jury, who only waited for their cue from the bench, after having been refreshed at the bar with two bottles of sack, and thus sufficiently invigorated to withstand the impertinent intrusions of an over-nice conscience, withdrew to consider the merits of the cause, and, in half an hour's time, brought in their verdict guilty; a verdict, which was no sooner uttered, than the court rung on all sides with the same barbarous shouts which had celebrated the triumph of party over the Papists. The prisoner, no wife dismayed at this inhuman treatment, maintained his courage and fortitude to the last: he persisted in denying the crime imputed to him: he resisted the temptations of the court to save his life, by accusing the earl of Shaftesbury, or other innocent persons; and through the whole of a long speech, which he made at the time of execution, preserved an innocence and simplicity of style and manner, which must have affected every auditor whose heart was open either to the sentiments of candour, or the feelings of humanity: but so entirely did the spirit of party extinguish these virtues, or even any sense of shame or decency in the Tories, that the zealots of the faction made no scruple to avow, in their writings, the iniquity of the sentence, by an insulting application of the proverbial saying, "What is sauce for a goose is sauce for a gander," to the havock which perjured witnesses had already made among the Papists, and were likely to make among the Protestants.

The same attempts, with the same ineffectual success, were made on the integrity of Rouse, as had been before practised on commitment on a charge of high-treason; and when the prospect of success in that prosecution failed, a new one, for a trifling misdemeanor, was filed against him, which ended in a fine of ten thousand pounds.



Ann. 1681.

College. This mechanic, though in narrow circumstances, could not be prevailed on, either with the hopes of a pardon, or the promise of a reward, to countenance the prosecution of lord Shaftesbury, by joining in the evidence against him. On the intractability of the prisoner, he was removed from the Tower to Newgate, and the attorney-general had directions to prepare for his speedy trial; but the inflexibility of the city juries still stood in the way of authority, and it was necessary to remove, or pervert from its intended use, this interruption of all good government, before the lawyers could effectuate what they had promised the king, viz. that by a proper management of the laws, they would render him as absolute as his heart could wish. To this honest purpose, some attempts were made to put the nomination of the juries in the power of the bench, or to reform the pannel, as it was called, on the authority of an obsolete statute of the third of Henry VIII. enacted on the purpose of correcting the corruptions of sheriffs, in cases of common felony, or meum and tuum; but as the words of the statute are express in exempting all cases of treason, and all inquests to be taken before commissioners of oyer and terminer, this innovation was undoubtedly made rather to strike a terror into sheriffs and juries, than to serve in any other way the immediate purposes of the crown: however, the policy failed of success; an ignoramus was returned on the indictment preferred against Rouse, on the reason that the witnesses were all men of blasted reputation in point of veracity, and that they deposed things which carried along with them their own confutation. The Tories, thus disappointed in their hopes of repeating in London the triumphs enjoyed at Oxford, were loud and virulent in their invectives on ignoramus juries; and the king, who regarded it as a presage of a more important defeat in the designs on the life of Shaftesbury, could not help breaking out into expressions of resentment not over decent in a sovereign whose interest and inclination is supposed

posed to lie in the preservation of his subjects, as far as law and justice will admit. Ann: 1681.

To obviate the objections which had been made to the infamous characters of the king's witnesses, great pains were taken to procure the countenance of men of less exceptionable characters. Burton and Graham, two solicitors for the court, made it the chief of their summer's employment to seek out all those who had frequented the earl of Shaftesbury's company; and, to avoid subjecting themselves to the infamy of a bare-faced subornation, they practised on the consciences of these men, by telling them they knew well that lord Shaftesbury had entertained them with such and such treasonable discourse, which they required them to attest, accompanying the requisition with great promises on their telling the truth: and when these individuals kept firm to their integrity, and denied any knowledge of treasonable matters against the earl, they underwent all the persecution which the rancour of party could suggest, and several were committed to prison, on the pretence, that an information upon oath of a treasonable nature had been made against them. Even the king himself, in a manner which would have done honour to the abilities of the most subtle attorney in the whole kingdom, condescended to practise, in person, on one captain Wilkinson, a prisoner for debt, who had borne arms in the royal cause, and, by the persuasive means of promises and threats, attempted to draw from him an accusation of his friend the earl of Shaftesbury. The honest old Cavalier Captain, though under the trying circumstance of a hopeless imprisonment, rejected the bribe with disdain, and treated the threat of being involved in the prosecution with such contempt, that, greatly to the disreputation of the court, he set forth a narrative of the artful method of subornation, which had been practised on him: but so little sensible to shame, and so strong was the resentment of the party, that, under all these disadvantages,



*Ann. 1682.* *Disadvantages,* the indictment against the earl was prosecuted. It was now near six months that this nobleman had been imprisoned, his house was searched on his being first taken into custody, and all his papers were seized, without permitting them to be marked, or any list to be taken of them, though it was required by the prisoner as a reasonable precaution, both for the court and himself. When carried before the king and council, he requested that his accusers might be brought face to face: but this reasonable demand, which had been granted to every one of the Papists, was refused; and when the earl made his appeal to the Board, whether they thought he could be so void of common sense as to treat with such persons as were the witnesses of matters of so dangerous a concernment as they had laid to his charge, not one of the counsellors had the confidence to answer in the affirmative; and it is really surprising, considering the violent heats of party during the last two or three years of this king's reign, with the triumphant state of the popular interest, from the breaking out of the popish plot to the dissolution of the Oxford Parliament, that the exertion of all the industry and power of the court could produce no one witness to give any countenance to the Irish gang, except one Booth, who, by a breach of engagements had contributed to Wilkinson's misfortune, and had received his majesty's pardon for the crimes of clipping, coining, and murder: a circumstance of this nature, at a period when words were overt-acts of treason, prove, that the earl of Shaftesbury must have been very prudent, or his confidants very faithful.

Indictment  
and acquittal  
of the earl of  
Shaftesbury.

THE 24th of November was the day appointed for the hearing this important cause; which highly engaged the attention of all parties; and the special attendance of the two chief-justices, the attorney and solicitor-general, and the whole posse of court lawyers, plainly discovered to the judicious observer the keen  
in veteracy

inveteracy of the prisoner's potent enemies. As no such overt-  
 act as is required by the statute of the twenty-fifth of Edward  
 the III. could be proved against the earl, that of the thirteenth  
 of this reign, which had often polluted the land with the blood  
 of the innocent, and which had been artfully drawn from the un-  
 wary credulity of party-prejudice, was the only law on which  
 the indictment could be founded; and though the jury were all  
 men of eminence as to character, abilities, property, and know-  
 ledge of the laws, yet the lord chief-justice Pemberton, after  
 enlarging on the force and extent of the fore-mentioned statute,  
 gave them many cautions to avoid the error of mistaking hu-  
 manity for justice, or entering into too nice an enquiry, which,  
 he said, ought to be left to those who were sworn to try the fact.  
 On a motion of Sir Francis Withins, the famous Parliament  
 abhorrer, the bench manifested their partiality by setting very  
 convenient bounds to the examination of the witnesses. When  
 the bill of indictment, in which the earl was accused of traitero-  
 usly compassing, imagining, and intending the death and final  
 destruction of our sovereign lord the king, &c. had been read  
 to the court, Mr. Secretary Jenkyns, and Blaithwait and Gwyn,  
 two clerks of the council, were called upon to authenticate a  
 certain paper, which contained the draught of an association  
 against Popery and the duke's succession\*, said by those wit-

\* According to bishop Burnet, and other writers, this paper was neither  
 written nor marked with the earl of Shaftesbury's hand; and the earl always  
 professed, after the matter was over, that he did not remember any thing of it:  
 so that if Gwyn's deposition was true, the paper was probably brought in by  
 some of the zealots of the party, at the time that an association was agitated  
 in Parliament; a circumstance of such importance in regard to the in-  
 nocence of the earl, that Mr. Secretary Jenkyns did not care to recollect the  
 having heard of this particular association, and denied that he had been pre-  
 sent at the reading of a bill for the purpose of an association, though the  
 contrary



Ann. 1681. nesses to have been found in the earl's closet : after this preparative, the witnesses were produced, who swore to every particular mentioned in the indictment ; and in the depositions of this obscure banditti, Shaftesbury, whom even his great enemy Mr. North, allows to have been a consummate politician, Shaftesbury who had been engaged from his early youth in faction and intrigue, in cabals and conspiracies, and consequently must have acquired a more than ordinary degree of discretion, whose prudence was indeed notorious, and who was known never to admit any stranger or suspicious person to an audience, but in the presence of his friends and servants, is represented as having opened, without reserve, his treasonable intentions to the lowest class of men as to fortune and reputation, several of whom he had never conversed with above once or twice \* : indeed the features of forgery are to be traced over the whole face of the evidence in general ; and the jury, whom the judge had not reasoned out of the opinion, that he who does not prevent evil when he may, does in effect commit it, executed their office with a dexterity and judgment that exposed the perjury of the witnesses † in a manner which abashed even the bench : the lord contrary was affirmed by several of his fellow-members, and that he had opposed the said bill with all his might.

*Burnet's Hist. of Charles the II. No Protestant Plot.*

\* It cannot be supposed, that such animosity of party could subsist without producing much warmth of expression on both sides. Burnet owns, that the lord Shaftesbury had an extravagant way of talking ; and Turberville, whose depositions only consists of some exceptionable words concerning the king's guards, on his death-bed declared, that what he had sworn against the earl of Shaftesbury and lord Stafford, were true : this is another circumstance which confirms the truth of the former observation on the popish plot.

† Notwithstanding their questions were subjected to the pleasure of the bench, who, during the course of examination, had interposed its authority very unfairly.

chief-

chief-justice Pemberton did not so much as attempt to give a summary of the evidence, but contented himself with saying, upon the issue, You had best go and consider what evidence is delivered, and weigh well all the things which have been said to you; and you must consider your duty, whether it be fitting for the king to call my lord Shaftesbury to question upon this account of treasonable words. Even the lord chief-justice North, so celebrated in history for his zeal for the government, was ashamed to lay the stress of his charge on the depositions which were brought in support of the indictment, but took notice of the association only, which had been proved but by one witness, viz. Gwyn, who deposed, that he put certain loose papers which he found in lord Shaftesbury's closet into a velvet bag, and that the paper then under the consideration of the court, was one of them.

AGREEABLE to the fears of one party, the hopes of the other, and the expectations of both, the jury rejected the indictment. The hall resounded with the acclamations of the Whigs, and the Tories vented their spleen in bitter invectives on the conduct of men who had exerted their important office with a circumspection, a sagacity, a judgment, and an attention which deservedly entitle them to the applause of posterity, and to be considered as a model for the imitation of all future juries.

To the practices which have been already mentioned on captain Wilkinson, it is to be observed, that among a variety of other particulars touching the charge of subornation of the witnesses, John Macnamara acknowledged to five several persons, that Warcup had offered him some hundred pounds if he would recant his evidence against the Papists, fall in with Fitzgerald, and swear treason against the earl of Shaftesbury and other Pro-



Ann. 1681. testant lords and gentlemen. Brownrigg deposed, that he saw two of the witnesses receive money from a servant of Marriot, both for themselves and two others of the evidence. Jenks deposed, that Ivey had confessed that great offers had been made to him, provided he would swear against Protestants: Mr. Ashlock affirmed, that Ivey one day told him, he had been with lord Hyde, who had ordered him to send to him from time to time for supplies of money; and that he had seen a letter directed to the said lord, which Ivey said was for money. Dennis, whilst soliciting the benevolence of the city, deposed before Sir Patience Ward, that both Warcup and Fitzgerald had tempted him with great offers of gold and silver, if he would depart from his evidence against the Papists, and swear treason against the lord Shaftesbury, Howard, and other Protestants. George Dennis deposed, that to his knowledge the witnesses who swore against the earl of Shaftesbury had a hundred, or a hundred and fifty pounds a man for so doing; and that he might have had as much if he would have sworn against the said earl. Shewen swore, that being the 11th of August in company with Smith and John Macnamara, the said Macnamara told Smith, that the reason why he could not wait upon him that morning was, that he had been with Sir Lionel Jenkyns, who had given him a long lesson. To the authority of these depositions, it was manifest to the world, that these men who had been suffered to languish in great poverty whilst under the character of witnesses against the Papists, had no sooner entered into the service of the court, which was as soon as it was manifest that the power of Parliaments was at an end, than they appeared in new cloaths, had their pockets full of money, and lived in all imaginable luxury. It must be acknowledged, that these are very striking as well as shameful circumstances; and to shew the inconsistency of human character and human pretensions, that great and wise philosopher, that

that contemner of all the vain pursuits and toys of this life, Ann. 1681.  
 the republican earl of Hallifax, who, from the merit of having  
 deserted his former friends and former counsels \*, and of en-  
 tering into all the worst measures of government, had regained  
 his favour with the king, and the direction of the counsels of  
 the cabinet was become one of the grand conspirators against  
 the life of his uncle, the earl of Shaftesbury, and other Pro-  
 testants, who had fallen under the displeasure of the court. In  
 Dr. Burnet's description of this nobleman, he is represented as  
 sacrificing his religious principles to the affectation of philo-  
 sophic refinement, and as a man who endeavours to stifle every  
 impression which may possibly obstruct the indulgence of his va-  
 nity, ambition, interest, or pleasure. The moral character of  
 lord Hallifax is given in a very few words by Sir William Tem-  
 ple, where he informs us, that it was the opinion of the earl  
 that the popish plot was to be prosecuted, whether true or false,  
 on the motives of policy; and agreeable to the same maxim of  
 policy, we now find him sitting at Whitehall, in a committee  
 of council, with Conway, Hyde, secretary Jenkyns, and Mr.  
 Seymour, for the purpose of settling the matter of the Irish de-  
 positions, appointing the salaries of the several emissaries em-  
 ployed in the business of subornation, and for giving a proper  
 direction to the whole proceeding; and as a proof that these

\* The refiners, says Sir William Temple, thought lord Hallifax, who  
 saw himself topped by lord Sunderland's credit and station, resolved to  
 make this sudden turn of falling in with the king upon the point then in  
 debate about the bill of exclusion, wherein he found the king steady; and  
 that my lord Sunderland would lose himself, so that falling into confidence  
 with the king upon such a turn, he should be alone chief in the ministry  
 without competitor: at least the reasoners on this matter could find no other  
 ground for such a change in lord Hallifax's course, after what he had so  
 long steered, and so lately in having been the chief promoter of the duke's  
 being sent away to Scotland just before the meeting of Parliament.



Ann. 1681. allegations of the popular party were not the mere suggestions of party-malice, the names of the individuals who composed this committee were openly made use of to give credit to the promises necessary to be made in the traffic of subornation; and in the publications of the popular party, these ministers were called upon to take signal vengeance on Warcup, Booth, &c. for having prostituted their characters to so vile a purpose, if they had any regard for the opinion of the public, or if these their known instruments had exceeded their instructions, and said or done more than they could justify.

It was not till the earl of Shaftesbury and the lord Howard had submitted to enter into a recognizance of three thousand pounds a piece, and each of their four sureties into half that sum, that they could obtain their liberty, though they had been regularly acquitted of their indictments. Shaftesbury entered a prosecution against Graham, the solicitor for the treasury, and others, for suborning witnesses to take away his life: but as the court would not suffer these matters to be canvassed by a London jury, Shaftesbury withdrew the prosecution, and declared from the bar that justice was not to be found out of London against the court.

Rigorous  
proceedings  
of the court.

It is a common observation, that those who suffer wrong are often more ready to forgive than those who have committed the offence, because innocence cannot be vindicated with impunity in matter of reputation to the aggressor. This was the case with the court, and they accordingly manifested all that resentment which is to be expected from mortified rancour and disappointed revenge. Prosecutions against the whole body of Dissenters, who were at this time numerous, powerful, and opulent, were carried on with such severity, that, according to archdeacon Echard, their treatment was more cruel and unchristian than any subject had

felt since the reformation ; and in order to drive the party to extremities, and to make their resentment a snare for their destruction, the present influence of the court over the Tory faction was exerted in the procuring a new round of addresses on the paper of association produced at the Old Bailey on the indictment of the earl of Shaftesbury. They are said to have been modelled by l'Estrange, and, if possible, were in terms more bitter, more inflammatory, and more servile than those which had been presented on the dissolution of the Oxford Parliament. These addresses gave rise to a smart paper-controversy between the two factions, where, on the one side, all the unfair inferences drawn from the paper of association, with the scandalous art of the court, were fully set forth, and accompanied with very severe observations on what was termed the corrupt servility of the clergy, and the majority of the nobility ; and on the other, an answer was returned in terms most bitter and acrimonious, and the earl of Shaftesbury was personally attacked with a grossness and virulence which can alone be equalled in those compositions which are dealt out with such copious eloquence in the magazines and newspapers of modern times, and which form the principal part of the amusement and instruction of both sexes in the present age.

THE duke of Monmouth, who had made offer to be bail for the earl of Shaftesbury, was deprived of the office of master of the horse, and of his regiment of foot guards. The university of Cambridge, in compliance with the king's commands, nominated the duke of Albemarle, the chancellor of their university, in his room ; and carried their complaisance so far as to displace his picture, which had been hung up in their public schools, and with many insults publicly burnt it ; and that no species of provocation might be wanting to fill up the measure of this once favourite son's mortification, on a frivolous and unmanly complaint of the marquis of Halifax



Ann. 1682. **L**ifax, an order was passed in council to all the king's servants, and such as had any dependence on the court, not to keep company with the duke of Monmouth. Wilmore, the foreman of College's London jury, had been committed to the Tower, and a process of high treason commenced against him: but on the blasted credit of the witnesses, and the failure of pretences to support the indictment, it was thought advisable to change the method of attack, and to ruin the poor man by putting an obsolete law in force against him: Wilmore was a merchant, and had sent a boy beyond sea, who had applied to him for the purpose, and who had no friend capable of providing for him. To this transaction the mayor of Gravesend, with his clerk, the king's searcher for that place, were witnesses; yet two years after the boy's friends, who were miserably poor, and who had been practised on by Wilmore's enemies, appeared against him; and though the lord-mayor had declared it to be his opinion, that Wilmore had acted honestly, and offered fairly, yet it was directed by the bench on the fore-mentioned authority, that Wilmore should be imprisoned till the boy was produced. In addition to this prosecution, Wilmore was indicted for an assault on the said boy; and notwithstanding it was urged in court, that the whole prosecution was malicious, that one Carlton Beaumont, who was a principal in it, had threatened to college Wilmore before he had done; also that twenty witnesses appeared to prove all which was advanced, a verdict was brought against the prisoner: nor were his persecutors content with the advantage which this perversion of law had given them. They made use of that authorised vehicle for court-flander, the Gazette, to triumph over his good name, by asserting, that the affair, upon a full and positive evidence, appeared very foul against him, and that he was no better than a professed kidnapper. It is to be observed for the reputation of this oppressed citizen,

citizen, who had the misfortune to be a Nonconformist as well Ann. 1682.  
 as an honest man, that in all the nice disquisitions which had  
 been made into his actions, this was the only circumstance of  
 his life on which his enemies could lay any hold; and that the  
 verdict, given against him produced such ill effects, and became  
 such a grievance to the merchants, that in order to lay the power  
 of this newly raised statute, the king singly, without even the  
 coadjutorship of his council, assumed the legislator, and put forth  
 an edict specifying after what manner the exportation of servants  
 should be carried on for the future, and that he would cause all  
 suits to be stopped which should be commenced against those per-  
 sons who should govern themselves thereby. To the examples  
 already mentioned, to deter men from making use of their privi-  
 leges for the protection of society, Whitacre, who with Aaron  
 Smith and one Best, had been charged with high treason, were,  
 in defect of evidence, prosecuted for seditious words; and to ma-  
 nifest yet farther the rancorous partiality of the court in a prose-  
 cution against count Coningsmark, a Swedish nobleman, who  
 with a view of marrying the betrothed wife of Mr. Thynn,  
 had caused this gentleman to be assassinated, the lord chief justice  
 Pemberton, in direct opposition to what had been the conduct of  
 the bench, in the cases before mentioned, appeared as council  
 for the count, and directed the trial in a manner that the  
 guilty principal escaped, whilst his two servants, the unhappy  
 instruments, fell a sacrifice for having served their master too  
 faithfully.



## C H A P. VI.

*Plan of arbitrary power concerted between the king and the duke—  
Innovations on the privileges of the citizens—Sheriffs forced on  
the city—Tyrannical proceedings in the election of a mayor—  
Prosecutions—Infamous conduct of the juries—Quo War-  
rantes—Foreign affairs—Death of prince Rupert—  
Affairs of Scotland.*

Ann. 1682.

Plan of arbitrary power  
concerted  
between the  
king and the  
duke.

**S**OOON after the dissolution of the Oxford Parliament, and the conclusion of the French treaty, the duke of York, by whose advice and direction these measures had been taken, was recalled to London; and it was at this time, that under the promising auspices of party, a regular plan of operations was adopted to effect those designs, which had in the first French treaty been determined on, and which had met with some interruption from the ill success of the second Dutch war, and the untoward circumstance of the popish plot. The dutchess of Portsmouth, who had altered her plan of politics with the turn of affairs, on the acknowledgment of her error, had regained the king's favour, and through her means the earl of Sunderland was re-established in his former standing at court; and, by the good offices of his majesty, a thorough reconciliation was effected between the dutchess, the earl of Sunderland, and the duke of York: on which occasion the lady declared, that the part she had acted was merely in order to get at the secrets of the party; and the earl protested, that it was with a view to the duke's interest that he had kept firm to the measure of an exclusion, because he considered it as a stumbling-block to the faction, and the only means to disappoint the views of his royal highness's enemies.

enemies. Though the king's authority made every day very considerable and very formidable advances, yet a complete triumph over the party, and the liberties of the empire, could not be acquired, whilst the city of London, and other corporations, retained their chartered rights and privileges; and, as according to the plan laid down by the lawyers, the ruin of constitutional freedom was to be effected by the surplice and the gown, and not by the violence of the sword, the character and conduct of the magistrate who filled the city chair was of great importance to the successful issue of the designs on foot. The alderman on whom the election to the mayoralty fell in course on the Michaelmas of 1681, was Sir John Moor. He was originally a Nonconformist; but from an ambition to fill the dignities of the city, and thus to become a man of consequence, he discarded his religious scruples, and conformed to the ceremonies of the church. Some of the dissenting party, who knew him well, opposed his election; whilst others, from mere contempt of his abilities, and his known timidity of temper, which is commonly an obstacle to the going through with great mischiefs, gave way to his advancement, rather than innovate, without an obvious necessity, the rule of rotation commonly observed in the election of the city magistrate. By this fatal division in the popular interest, the court gained their point; and the king, looking upon himself as now in a condition to put on the character of the master, threw aside all the gentleness of outward deportment, by which he had acquired his former popularity, and, at the expence of common decorum, put a personal affront on the two sheriffs, when, according to the duty of their office, they brought an invitation to dinner from the city. "Mr. Recorder, says his majesty, an invitation from my lord mayor and the city is very acceptable to me; and to them that it is so, notwithstanding it is brought by messengers who are so unwelcome to me as those two sheriffs, I accept it."



Ann 1695.

Innovations  
on the privi-  
leges of the  
citizens.

It may be remembered that the mayor's right of appointing one of the sheriffs by the ceremonial of drinking to him had been faintly asserted by Clayton in 1680, and over-ruled by the spirit of the times. It was now determined to revive and renew that pretension, with all the new-acquired vigour and influence of the crown: and as the successful issue of this business depended entirely on the conduct of the chief magistrate of the city, Sir John Moor was sent for by the king; where, after the lawyers had fully instructed him in the extent of his power, his majesty himself was pleased to encourage him with expressions not only of protection but command. Sir John Moor, after much trembling hesitation, promised obedience, and that he would send his cup to any citizen his majesty would please to nominate to him. After the gaining this point, the business of the ministry was to find out two wealthy and reputable citizens, who were equally inclined with the mayor to sacrifice the rights of the community to the pleasure of the court; but, notwithstanding the heats of party, it appears, that the wealthy citizens were in general very backward in the affair; not, as we are told, upon any principles of honesty, integrity, or regard to the rights of the city, but through fear of the censures of Parliament, and of being involved in a law-suit, by accepting the office of sheriff through the nomination of the lord-mayor, when the right of election was in the common-hall only. Sir George Jeffries had the good fortune to solve this difficulty, by the recommendation of Mr. Dudley North, a Purkey merchant, lately arrived from Constantinople, and brother to the lord-keeper. The king proposed the matter to the lord-keeper, who undertook to satisfy his brother on the point of prudence; and matters being thus concerted and determined, the cup, agreeable to form, was sent to Mr. North, who, notwithstanding all the endeavours of the popular party, in the way of threats and persuasions, was determined to gain his ground, gave bond to serve the office, was nominated sheriff elect in the

Gazette

Obedience before the day of election, and in the lord-mayor's Ann. 1681.  
 precept for the meeting of the livery, it was expressed, that the  
 said meeting was to be hold for the confirmation of the  
 election, which by the charter to be one of the sheriffs. This  
 alarming innovation was followed by such distractions in the  
 city, that it was found necessary to hold a court of alder-  
 men on the occasion; where, after some debate, agreeable to  
 the opinion given by Sir George Treby, the recorder, it was de-  
 termined with the acquiescence of the whole court, that the  
 right of electing both the sheriffs lay in the livery, and that  
 the sheriffs *pro tempore* were judges of the poll if any should  
 arise. This determination, which appears to be a mere feint to  
 quiet the apprehensions of the adverse party, was so far from  
 giving any discouragement to the king and his ministers, that  
 a resolution was now taken to impose two sheriffs on the city,  
 the one in the way of confirmation, and the other in the way  
 of election. Papillon and Dubois, who had served on lord  
 Shaftesbury's jury, and had rendered themselves popular among  
 the party, for the part they had taken in exposing the perjury  
 of the king's witnesses, were the men whom the independent  
 citizens had fixed on as the objects of their choice; and when  
 on Midsummer day the question of confirmation was put to  
 the livery, the hall rung with such a thundering negative, that  
 the lord-mayor and his faction in the court of aldermen thought  
 proper to retire to deliberate on what was next to be done. On  
 the return of the lord-mayor, the question was again put; but  
 with no better success, the mayor again withdrew, and  
 after much unavailing altercation between the leading citizens of  
 both parties, it was at length determined, that the matter should  
 be referred to the court of common council. The absurdity of this pretension appears on the face of the summons,  
 since the lord-mayor had a right to nominate the sheriffs, what occasion  
 was there for any confirmation of the livery?



Ann. 1695. be argued by counsel. The arguments of Coleridge in favour of the pretensions of the malecontents, were founded on precedent and the authority of charter; but the lord-mayor, as if inspired by the opinion delivered by the attorney-general, suddenly ordered the officer to take up the sword, and go down into the hall, claiming most heroically as he went off, *If I die, I die!* manfully passing through the crowd, he took his seat on the hustings, and directed the common serjeant to adjourn the court, and after having in this gallant manner trampled on those rights which he was bound by every principle of justice and honour to defend, his lordship and his party quitted the hall. The sheriff, who had too much spirit to give way to so flagrant a violation of privilege, held on the assembly, and proceeded with the election, first putting up North and Box, and afterwards Papillon and Dubois, who having the greater number of hands for them, a poll was demanded in favour of North and Box. The sheriff, not to be wanting in any of the common forms, repaired to make their report to the lord-mayor, who not having the attorney-general at his elbow, acquiesced in the poll: it appearing that the suffrages were likely to fall upon Papillon and Dubois, his lordship on some very ill-founded complaints of several individuals of the court-faction, repaired to the polling place, and forbade the farther proceeding in the poll; but the sheriff, after offering their reasons why they ought to go on in the legal discharge of their office, proceeded with the poll till nine in the evening, when, from some disturbance raised by the adverse party, they returned to the hall, and adjourned the court from Saturday till Tuesday morning.

In this state of affairs it was necessary for the court to interfere, or submit to the mortification of a total defeat. On Monday morning the lord-mayor, aldermen, and sheriff, were

desired to appear before his majesty in council, where, after certain depositions had been taken upon oath, that the sheriffs had continued the poll after the lord-mayor had adjourned the court, and that this proceeding had occasioned a riot, they were committed to the Tower, in hopes, says the anti-courtiers, that the citizens would have risen to have rescued their officers, which would have been interpreted a rebellion, and have laid the whole nation at the King's mercy. Agreeable to the same writers, the mayor was much more obnoxious to the charge of a riot than the sheriffs, who had merely executed the duties of their office, but his lordship, on the contrary, when he took upon him to adjourn the poll, was followed by a company of blustering braves, of whom many were not freemen, many were armed with swords, many were Papists, and whose behaviour was provokingly insolent to the citizens in general, but particularly to the recorder and the aldermen of the popular party, that it was believed these insults were purposely offered, to create a disturbance, for which reason the injured persons made no other return than to reprove the offenders for their want of respect to authority.

NOTWITHSTANDING the vigorous measure of committing the sheriffs for a pretended offence, without hearing counsel on their behalf, these obstinate patriots having been admitted to bail, returned to the exercise of their office with as much ardour as ever; but before the business of the day came on, the recorder appeared on the hustings with the intelligence, that the lord-mayor was indisposed, and that not being able to attend, he required the hall to adjourn. This was refused, on the reason that the lord-mayor had no such authority over the assembly, that he was among them as a fellow-citizen, and had only a single vote to cast. The sheriffs were called upon to proceed with the poll, which having



Ann. 1682.

been carried through without farther interruption, after repeated summons had been given by proclamation for all voters to come in. Panillon and Dubois were found to have the majority of voices, and declared duly elected. On this untoward circumstance, the partizans of the lord-mayor gave up his cause for lost, and this heroic magistrate was attacked on all sides with new doubts and scruples. These ignorant citizens, who, it seems, did not understand order and the constitution, could not help regarding the election as a fair one, and consequently, the office shut to the hopes of the other candidates; their doubts and scruples, in some measure, shook the courage of the mayor; and a kind of compromise was made with the party, that the election and nomination should be waved, the four candidates put up again, and the choice left to the citizens. This compromise had no sooner reached the ear of the court, than Sir Lionel Jenkins was posted into the city, to exert his ascendancy over the mayor; and his lordship was again summoned before the king and council, where all the learned at the board declared, that the proceedings of the sheriffs were no act of the body, and as to legal effect absolutely null, but yet criminal, as being done without and against lawful authority; and that at the next meeting of the common hall, the lord-mayor ought to proceed as if nothing had been done, as the use is when sheriffs chosen sine off. All this encouragement did not clear the doubts of Sir John Moor. The perplexity of his mind was observed by the lord chief-justice, who assured him that he need not be at all concerned, for the question was frivolous and impudent; on this Sir John Moor, creeping to the place where this great oracle of the law sat, with a most submissive countenance desired to know of his lordship if he would be pleased to give this opinion under his hand; and, contrary to the expectation of all present, his lordship said Yes; and calling for pen and ink wrote his opinion, signed with his name, and then proceeded with the roll which had been

that the lord-mayor had power to adjourn the common hall to what time and place in the city he thought fit. This important question, in this very reign, in the year 1690, had been decided in a different manner against Sir Samuel Stirling, mayor, in one of the justice courts at Guildhall, in the Common Pleas by Judge Wyld, and in the King's Bench by that most excellent and upright judge Sir Matthew Hale \*, who pronounced from the bench, that if the lord-mayor should be allowed such a right and prerogative, without the consent and leave of the majority of the freemen, it would directly tend to the subversion of all the privileges of the city. These authorities were undoubtedly as important as they were recent; consequently, the peremptory decision of the chief-justice, given under his hand, highly pleased the king; and though we are told by Mr. North, that it very much confirmed Sir John Moor, yet for his better countenance it was thought fit that his majesty should order him to do his duty in the city, and take effectual order that at the common hall to be held the next day, all proceedings should be begun anew, and carried on in the usual manner, as they ought to have been upon the 24th of June last.



production to the business of the day, the order of council was read, in which the adverse party cried out for the reading the act of the sixteenth of Charles I. in which was a declaratory clause, that the privy council had no authority to examine, determine, or dispose of the lands, tenements, hereditaments, goods, and chattels of any of the subjects of this kingdom. Contrary to the very essence of a common hall, which implies an assembly of the livery on an equal foot, to sit freely for themselves as to the business of the day, this very reasonable demand was refused by the lord-mayor, and when several citizens attempted to speak to the point before them, they were denied the liberty of speech, and his lordship proceeded to insist on his former nomination, and to signify that all which they had to do was to confirm Mr. North as his sheriff, and proceed to a new election of their own. The sheriffs, with the consent of their party, agreed so far to obey the order of the council, as to proceed to a new election, with a *salve jure* to their former; yet continued to insist, that, according to the ancient custom of the city, the election was wholly in the common hall; and though his lordship might recommend a person to serve, he had no right or power to enforce the choice. To cut off all farther controversy, the lord-mayor caused books to be opened under the inspection of the common serjeant, the town-clerk, the two solicitors, and the four aldermen of the mayor's court, with three columns only for Box, Papillon, and Dubois, and, contrary to all former usage, took upon himself the management of the poll. Upon this new intromission the sheriffs made their appeal to the hall, and having been expressly authorized by the majority, opened other books for the four candidates. When the polling was ended, it was found that the sheriffs' poll exceeded those of the mayor by hundreds; but the mayor's books were declared the legitimate poll, and on this authority Box was pronounced duly elected. Box was so ashamed of the methods which

had

had been taken to force him into the office, that he chose to fine off rather than serve, though the court offered full security to indemnify him from any suits or damages which might ensue. Notwithstanding this untoward circumstance, the government still persisted in the resolution of forcing two sheriffs on the city; and one Rich, a lieutenant-colonel of the militia, whose circumstances were low, but his zeal active, and who had been employed in taking depositions during the late prosecutions under Mr. Secretary Jenkins, was pitched on to supply the place of Box. A common hall was held on the 19th of September, when the common serjeant put Rich and one Griffith in nomination, but not as had been customary by the common cryer's making proclamation: on the contrary, in order to take advantage of the continual clamours with which the hall resounded, and which prevented nine parts of the assembly from hearing what was said on the hustings, the two candidates were named in a manner that not above ten persons heard the nomination; and when about thirty of the court-party, who had been previously tutored, cried out, some for Rich, and some for Griffith, the common serjeant intimated, that the choice was fallen on Rich; on which it was declared by the lord-mayor, that Rich was the sheriff, and he accordingly proceeded to dissolve the hall: but the sheriffs, as before, disowning his authority, continued the assembly, and put the question to the livery; whether they would abide by their former choice; and on the appearance of some opposition from the lord-mayor's party, proceeded to a new poll. On this the lord-mayor sent the common cryer to the sheriffs, to require them to disperse that unlawful assembly, and they shewing no regard to his order, returned himself to the hall with the aldermen who were of his party; and having made shift to disperse the people, but by what means is no where explained, he caused the gates of the hall to be shut, and repaired to court with a complaint against the sheriffs, who

Ralph's Review.



Ann. 1682. who were again summoned to make their personal appearance before the council, and after a severe reprimand, they were called upon to enter into a recognizance of one thousand pounds each, as also to find ten sureties of five hundred pounds each, that they should appear the first day of the next term, to answer to such information as the attorney-general should bring against them on the king's behalf, and in the mean time to be upon their good behaviour \*.

To complete the violence, the illegality and the oppression with which the whole of this business was conducted by the court, on the day of swearing in the new sheriffs, Guildhall was early in the morning possessed by a party of the train bands; and when the aldermen who were in the interest of Papillon and Dubois entered the hall, Quiney, the commanding officer, ordered his men to surround them, and whilst they were squeezing into a space of about six feet square, they were told by the said officer, that he had orders to keep the hall clear till the lord-mayor came. The aldermen desired to see the order, which they said could not affect them, as magistrates; and also having the lord-mayor's summons to attend, Quiney, being at a loss for any answer, withdrew for new instructions, and when returned said, Gentlemen, you must withdraw, I have a command to require it: on this he was again importuned to shew his orders, but he answered, he should shew none to such as they: after which rudely laying his hand on Sir Patience Ward's shoulders, he said, Sir, you must remove; and, at the same time, called upon his soldiers to interpose between the aldermen and the bar, and

\* When the sheriffs were brought before the King's Bench, in consequence of the attorney-general's information, those persons who had been bail for them refused to enter into a second recognizance, and they were obliged to stand bound for one another; a circumstance of ingratitude in the party, which Mr. Carte informs us was sensibly felt by Pilkington.

force them away. Ward called upon his brethren, and even Ann. 1682. upon the soldiers to bear witness to the violence which was offered him. Quiney replied, that he cared not for witnesses, but would justify what he had done by his orders; when laying hold on Sir John Lawrence, another of the aldermen, who was leaning on the bar, he, with great and repeated violence, pulled him from off the step, and so in succession proceeded to take the rest, till the bar was cleared. When the lord-mayor arrived, as a kind of apology for the violence, he exclaimed, Gentlemen, here are fine doings, to go and swear sheriffs and I not present! To which it was replied, by one of the aldermen, that they had not the least intention to attempt any such thing, but only to make good their claim, by presenting those sheriffs which the livery had chosen, that the dispute might be determined by law, according to what his lordship had frequently and publicly declared. When the court was sat, Papillon and Dubois made a tender of themselves to serve the office of sheriffs for the year ensuing, in conformity to the choice of their fellow-citizens; but the lord-mayor refusing to accept it, "We desire to tender our sheriffs, said the forementioned aldermen, in order to have the business more fairly determined by law, according to your lordship's promise; and it is the only way left us, though troublesome and chargeable: and we also desire that the matter may be debated, in order that an answer may be given to the sheriffs who have rendered themselves." On a motion of Sir Patience Ward, that the tender made by the sheriffs, and his lordship's refusal, might be recorded, and on the intimation of Sir Robert Clayton, that if he brought the affair into dispute, and put the issue upon the determination of the court, he would either have the authority of the court to justify him, or they would have as much to answer for as himself, the hero Moor seemed relapsing into his former irresolution; but on being spirited up through the encouragement given by the court-partizans, he again

Sheriffs forced on the city.



# HISTORY OF FRANKLAND.

The friends of North and Rich, on being called on to follow him at the hustings, where the friends of Papillon and Dubois again demanded to be heard, but were peremptorily refused. On the mayor calling his two men to the book to be sworn, Papillon pressed again to be heard; he was again peremptorily refused; he would then have presented a paper, signed by himself and Dubois, signifying that they were ready to take the sheriff's oath, and every other way to qualify themselves as the law required, for the holding and discharging the office. This was also rejected with scorn, and the lord-mayor then proceeding to administer the oath to North and Rich, Papillon and Dubois advanced likewise, whilst the former laid his hand upon the book, still contending to be heard, but was at length obliged to desist, by the positive commands of the lord-mayor and his party, accompanied with a solemn charge to keep the peace. During these transactions on the hustings, the very few liverymen who had been permitted by the trained bands to enter the hall, were kept at such a distance from the bar, that all communication between the hustings and the floor, was in a manner cut off. With such circumstances of violence and oppression, North and Rich were sworn in, whilst the six aldermen who contended for the privileges of the city, were obliged to content themselves with entering a protest against these irregular and illegal proceedings. On the insolent and violent treatment of these six aldermen by the military, Ralph observes, that several of the opposite party looked on whilst the outrage was committed, not only with composure but satisfaction, as preferring the narrow dirty service of their particular faction, to the peace, dignity, freedom, and independence of the city in general. It is reported, that one Duncomb, a banker, declared his astonishment that so many of the citizens should take such pains in this affair, seeing they had nothing to apprehend from the court, their only design to obtain

to their mind being to hang about nine or ten persons, who were noxious to their power: but what will yet more effectually break the temper, the spirit, and the conduct of that mad roaring party which brought such confusion into the government, and such destruction on the constitution, that they were themselves obliged to have recourse to the dastardly and dangerous expedient of calling in a foreign power, to repair the damages and reduce the tyranny they had erected, is the account given by their great advocate Mr. North, of the triumphs which followed the successful innovation of the court. The sheriffs opened their hall, says this writer, and began the course of feasting the several companies, which they carried on with great plenty, jollity, and splendor; and the fancy went farther, for some societies without the city, as the Temple in particular, desired the honour of dining with sheriff North, and made him a present as the way is. The musicians, who had been for a while excluded, were now restored to their posts; and as if they had been lately retired to Parnassus, and had come back inclined to poetry, were no niggards of their vein in celebrating the restitution of their faculty, they chanted out their master's name in words at length; as for instance,

The worshipful Sir John Moor,

After ages that name adore,

rang in all companies; no person was ever more popular and cried up in the city than he was, and his health constantly drank, in the rhyming poets sense, with adoration. Wat Tyler was not more celebrated for courage and constancy, than was that good magistrate: cheerfulness appeared in all places public and private, in the room of the snarling back-biting minatory trade carried on before. It is not to be denied, but at merry-meetings, good-fellowship, in the way of healths, ran into some extravagance,



Ann. 1682.

as that which they call huzzaling, an usage then in its perfection; and the use of it in healths was not unlike the assemblies of the Levantine merchants, that at every health cried *che vios*! so at all the Tory healths, as they were called, the cry was roared of Huzza! which at great and solemn feasts made no little noise, and gave advantage to the Whigs to charge the Tories with brutality and extravagance, both clergy and laity, which had perhaps been less, if there had been no disorders made by the other party to occasion rejoicing as after a recovery. To this ridiculous account of the triumph of party principle over good sense, decency, patriotism, and common honesty, it is to be observed, that the old duke of Ormond, the idol of the high-church party, who, by the advice of the duke of York, was summoned from his respectable post in Ireland to promote the designs on foot, condescended to become the tool of the faction, and the coadjutor with Mr. secretary Jenkins, in fixing the irresolute conduct of Moor; and, according to his biographer and panegyrist Mr. Carte, exerted all his interest and credit on the occasion: he for several weeks even oppressed with fatigue Mr. Gascoyne, his secretary, dined himself with Sir John Moor, once or twice a week, during the whole contest, and was the man, who, above all others, inspired this corrupt citizen with a courage equal to his dishonest ambition.

Tyrannical  
proceedings  
in the elec-  
tion of a  
mayor.

THE manner in which the court had succeeded in forcing their dependents on the city to serve the office of sheriff, sufficiently convinced them of the great importance of having the city-chair filled with a magistrate who would be equally at their devotion as the worshipful Sir John Moor. Sir William Pritchard had, during the late contest, distinguished himself for the activity of his zeal, and his readiness to go all the lengths of prostitution in promoting the good cause: he was, consequently, pitched on as the proper person to succeed in the mayoralty, and was

set up by the government, in conjunction with Sir Henry Tulse, *Ann. 1681.* Sir Thomas Gould and alderman Cornish were the two popular candidates, and had the whole support of the independent interest. The contest for mayor immediately succeeded the contest for sheriffs, and after going through the common forms of naming all the aldermen beneath the chair, it was declared, by the common serjeant, that Sir William Pritchard and Sir Thomas Gould had the majority of hands. A poll was agreed on by both parties, and though it was put under the direction and inspection of the courtiers only, viz. the new sheriffs and the common serjeant, it appeared that the numbers for Pritchard were 2233, for Tulse 2361, for Gould 2289, and for Cornish 2259. The court, agreeable to that shameful disingenuity which they had used during the contest for sheriffs, and on a variety of other occasions, reported in the Gazette, that the disparity between the two parties were but twenty-five voices, and after having in vain had recourse to a scrutiny, they proceeded, without any grounds of justice, or even fair pretence, to disqualify such a number of freemen, as to give a majority to Pritchard of fourteen votes. On this additional act of flagrant oppression, Mr. Williams and Mr. Wallop were appointed by the independent citizens, to move the court of King's-Bench for a mandamus to Sir John Moor and the aldermen to swear in either Gould or Cornish, who had demonstrably the majority of votes; but, agreeable to what was undoubtedly expected from the present corruption of the Bench, the court rejected the motion, on the pretence that a mandamus, in the disjunctive, was both absurd and unprecedented.

The immediate prosecutions which followed these violations of the rights of the citizens, sufficiently manifest what purposes they were intended to serve. The crown had now the nomination of juries in their power, and the lives and properties of the subject

Prosecutions.  
Infamous  
conduct of  
the juries.



Am. 1682. <sup>1</sup>ject at their mercy. These men, picked for the base purposes of  
 oppression and cruelty, and void of every sentiment of candour,  
 humanity, and common honesty, made no scruple to sacrifice  
 both justice and the laws of the constitution to the factious  
 views of their superiors; and exhibited, in their conduct, all  
 that flagrant partiality with which former juries had been un-  
 justly taxed; and which, in no degree, had ever appeared in  
 their conduct, but on the lenient side of the question, and that  
 only in one or two cases in favour of what is termed the freedom  
 of the press, viz. the new edition of the couriers only, and in the  
 case of Richard, who was naturally of a warm temper, and  
 who had been greatly irritated by the scandalous proceedings of  
 the government, not only refused to give his attendants with  
 the lord-mayor and aldermen, to congratulate the duke of York  
 on his return from Scotland, but broke out into the following  
 expression, "He has fired the city, and is now come to cut  
 our throats." For these rash words he was prosecuted by the  
 duke, and, in defiance of Magna Charta, which forbids the  
 utter ruin of a man and his family, the jury gave no less than  
 one hundred thousand pounds damages; he was also loaded  
 with an additional fine, for the enormous riot of continuing  
 the poll after the lord-mayor had adjourned the hall. Sir  
 Patience Ward, formerly mayor, who gave evidence for Pilling-  
 ton on the first indictment, was sued for perjury, and condemned  
 to the pillory; and as a farther insult on the party, and incentive  
 to their rising in arms, and thus affording an excuse for military  
 execution, the duke of Monmouth, who had interested himself  
 greatly in favour of Papillon and Dubois, and had actually be-  
 spoke thirty post-horses on the road from Litchfield to London,  
 to enable him to attend the election, was taken into the custody  
 of a serjeant at arms, whilst at dinner at Stafford, in the midst  
 of a numerous concourse of people, and of his particular friends,  
 by

by whom he had been entertained with some ostentation in the western counties. The duke, tho' surrounded with a crowd of idolaters, had the prudence to submit to the arrest, and to take the remedy of law, by demanding a writ of habeas corpus, but on his refusing to give security for keeping the peace, he was committed to the custody of the serjeant at arms by a new warrant, and was afterwards set at liberty, on giving the lords Clare, Ruffel, and Gray, for his bail.

The duke of Ormond, who had entered so far into the low and criminal schemes of the court faction, on the occasion of the forementioned commitment of the two popular sheriffs, Pilkington and Shute, as to advise their being conducted to the Tower through Cheapside, and by the Exchange, by four beef-eaters only, instead of their being carried by water under a strong guard\*, now condescended to enter into a more interior intrigue of the cabinet, and to become an instrument in the removal of his old friend, the earl of Anglesea, from his office of lord-privy-seal.

The earl of Anglesea, from being a staunch Presbyterian, had on the Restoration entered so strongly into the religion and policy of the times, that he was suspected by his old friends of having entertained prejudices in favour of popery: but as old principles are apt to occur, on the natural decline of the passions, with the decline of life, and when the power of reason is no longer disturbed by the fantastic operation of a youthful imagination, which exaggerates or diminishes every object of contemplation, the ducti-

\* This is regarded by Ralph, who in many parts of his history highly panegyricizes the duke of Ormond, as a snare, because Mr. North confesses that a rising would have ruined the party, and that there was force enough at hand to have secured the commitment of the sheriffs.



Ann. 1682. lity of the earl of Anglesea's conduct began to abate. Whenever the question had been agitated in council, he had given his opinion against those dissolutions of Parliament which had been found so necessary to the establishment of the king's power: he had also taken the liberty of writing a very long and a very sensible letter on the state of the government and kingdom, in which, among much wholesome advice, he had recommended to his majesty to avoid the raising any jealousies in the minds of his people on the subject of their rights and liberties; to discourage the present war of factions; to be cautious of the ambitious and intriguing spirit of the French monarch; to call a Parliament according to his majesty's solemn promise in his declaration; to employ men of character in the public offices; to endear himself to his people by his clemency; not to suffer the clergy to meddle in matters of state; to correct the management of his revenue; to maintain a powerful fleet; to fill the seats of justice with men of abilities, honesty, and integrity; to dismiss from his court informers and sycophants; to avoid countenancing divided and dividing addresses, and invasions upon the liberties of the constitution; to reconcile himself to his people, by the redress of their grievances; and to suffer no partialities to interrupt the due course of justice. Such a conduct was more than sufficient to cancel the obligations of a long service of upwards of twenty years: the earl of Hallifax, now made a marquiss, aspired to the office of privy-seal; but the earl of Anglesea's behaviour had been so circumspect, that no better pretence could be found for his removal, than certain passages in a letter of his, containing some strictures on the treaties of cessation and treaties of peace, which the duke of Ormond had made with the Irish Papists during the rebellion; though this letter was intended as no more than a private correction of the lord Castlehaven, to whom it was sent, and through whose hands it found its way to the press. The duke of Ormond

was

was called upon to prefer a complaint against the earl at the council-board, which he accordingly did, and which contained the following articles, that the earl had injuriously reflected on the late king in the said book, and that he had maliciously endeavoured to asperse the duke of Ormond. The council made no scruple to determine, that the earl of Anglesea's letter was a scandalous libel against his late majesty, &c. On this the earl sent an expostulatory epistle to his majesty, under cover to the president of the council, in which he complained of the visible partiality of the proceeding, and reflected on the council-board for having usurped a power, not warranted by the laws of the land, to sit in judgment on a peer. This letter produced no further resolution of the council, and the controversy ended, by depriving the earl of Anglesea of the privy-seal, and bestowing it on the marquis of Halifax.

Ann. 1682.

THE forcing a mayor and sheriffs on the citizens was but an introductory part of that plan of policy, which had been settled during the duke of York's visit in England, and, which appears by the confession of Mr. North, had taken its rise from the instigations of the lawyers, who had told his majesty, that he might do by law, i. e. by the abuse of its forms, every thing which was necessary to be done. In consequence of this position, an important project was formed, not only to make the king the entire master of the city, but of every corporation in England, and thereby effect that alteration in the constitution of the country which some of the worst of its princes had aspired to, but which the most powerful of them had never been able to complete. It was pretended that the city of London might legally be deprived of its franchises, on account of two offences which the court of aldermen and common-council had committed: the first of these was a petition of the city to the king for the sitting of Parliament, and in this more

Quo Warrantos.



Ann. 1682.

particularly the following clause, your petitioners are greatly surprised at the late prorogation, whereby the prosecution of the public justice of the kingdom, and the making necessary provisions for the preservation of your majesty and your Protestant subjects hath received interruption; and the second, for imposing a small toll on goods brought to market, on the reason of defraying the expence of rebuilding the markets, with many additional conveniences, after the great fire of London in 1666.

THAT the king, according to Mr. North, might proceed on sure grounds, Pemberton, whose conduct on the indictment of the earl of Shaftesbury had not answered the expectations of the court, was removed from the King's-Bench to the court of Common Pleas; Sir Francis North having been appointed chancellor, with the title of lord Guildford, on the death of the earl of Nottingham. This removal was to make room for Saunders in the King's-Bench, who, according to Mr. North, was in his origin a parish foundling, living on the scraps which were thrown to him by the attorneys clerks of Clement's-Inn; but having taught himself the art of writing, he became a hackney-writer, then an exquisite entering clerk, and at last an able counsel. Thus much for Mr. Saunders's education and abilities. As to his life, says the same author, he grew a mere lump of sordid flesh by continual sottishness; and as to his practice, his great dexterity was in the art of special pleading, in which he would lay snares, which often caught his superiors who were not on their guard; and he was so fond of success for his clients, that rather than fail, he would set the court hard with a trick, for which he sometimes met with a reprimand. Lord chief-justice Hale, in particular, abhorred his irregular life; and for that, and a suspicion of his tricks, used to bear hard with him in court. To these virtues of Mr. Saunders, we must observe, that he was a very zealous and a very active abhorrer; and when the court took

took the resolution of abusing the forms of justice, to establish tyranny, he was taken into his majesty's business, and had the part of drawing and correcting almost all the indictments, informations, and special pleadings: he had the settling of the large pleadings in the quo warranto against London, and was consequently the man in whom the important trust of condemning the city-charter was securely reposed. Ann. 1682.

THE cause of the city was put into the hands of Treby and Pollexfen, who pleaded, that since the foundation of the monarchy, no corporation had ever been exposed to forfeiture; that the thing itself implied an absurdity; that a corporation, as such, was incapable of all crime and offence, and none were answerable for trespass or iniquity but the persons who committed it; that the members in chusing magistrates had entrusted them with legal powers only, and where the magistrates exceeded these powers, their acts were void, but could not involve the body itself in any criminal imputation; that such had ever been the practice in England, except at the Reformation, when the monasteries were abolished; that this case was an extraordinary one, and it was even thought necessary to ratify the whole transaction by an act of Parliament; that even a private estate, if entailed, could not be forfeited to the crown, on account of treason committed by the tenant for life; that the offences objected to the city, far from deserving so severe a punishment, were not even worthy of reprehension; that all corporations were invested with the power of making bye-laws; and the smallest borough in England had ever been allowed to carry the exercise of this power farther than London had done. In the instance complained of, the city having, at its own expence, rebuilt and improved the aforesaid markets, might as lawfully claim a small recompence from such as brought commodities thither, as a man might require rent of a house of which he was possessed; that it was



Ann. 1682. an avowed right of the subjects to petition, nor had the city in their address abused this privilege; that the king himself had often declared the Parliament, often voted the nation, to be in danger from the popish plot, which, it was evident, could not be fully prosecuted but in a parliamentary manner; that the impeachment of the popish lords was certainly obstructed by the frequent prorogations, as was also the enacting of necessary laws, and providing for the defence of the nation; that the loyalty of the city, no less than their regard to self-preservation, might point them to frame the petition, since it was acknowledged that the king's life was every moment exposed to the most imminent danger from the popish conspiracy; that the city had not accused the king of obstructing justice, since it was allowed that evil counsellors were alone answerable for the ill success of any measure; and that it was unaccountable that two public deeds which had not, during a long space of time, subjected any one to the smallest penalty, should now be punished so severely upon the corporation, which always was and must be innocent.

Ann. 1683. THE removal of Pemberton was not the only precaution taken by the court in this important point, on which the future government of the kingdom was to depend. Withins, who had also the merit of being an abhorrer, was made a judge in the room of Dolben, and the bench thus modelled, gave sentence against the city. Whilst this important cause was yet depending, Papillon and Dubois had the spirit to arrest Sir John Moor, North, and Rich, with several aldermen, for having illegally deprived them of the office of sheriff; but the common council, who had been modelled in a manner as to produce a perfect harmony of conduct in all the governing powers of the city, on their first meeting after their election, joined with the court of aldermen in returning their thanks to Sir John Moor, for

for the good services he had performed during his mayoralty, Ann. 1683. and not only disowned the action of the arrest, but turned Brome, the coroner, out of his office, for having granted the warrant; and also declared and enacted, that the lord-mayor had authority to chuse one of the sheriffs.

WITH an affectation of lenity and moderation, the king gave the attorney-general orders to delay the entrance of the judgment against the city, till his pleasure was farther known. A common council was called to consult on what was proper to be done in this exigency, and it was by a very large majority resolved, that a submissive and yielding petition should be sent up to the throne, in which the petitioners should acknowledge their hearty and unfeigned sorrow for the misgovernment of the city, in which they should declare that they were deeply and thankfully sensible of his majesty's great favour in not requiring the judgment given against them to be immediately entered, and in which they should cast themselves at his royal feet, most humbly begging his majesty's mercy, grace, and pardon. The lord-mayor and such of the aldermen and common council, who had most contributed to bring things to this hopeful issue, were deputed to carry up to the throne the submissions of the city; and they were told by the lord-keeper, in his majesty's name, that for the sake of the undoubted loyalty of the present magistrates, and other eminent citizens, he would shew the city all the favour which they could reasonably desire; that notwithstanding the many provocations he had received, he had not taken the resolution to question their charter till he found there was no likelihood of order and good government, so long as the factions retained any hopes of procuring the election of magistrates of their own party, for their impunity; that it was not for the punishment but the good of the city, that he had taken this course; that they had not been well advised in deferring their application



Ann. 1693. application till the court had pronounced judgment; but his majesty's affection for the city was too great to reject their suit for that cause. They would, however, have less time to deliberate on the particulars which the king required of them: but indeed there would be little need of deliberation, for the king had resolved to make the alterations as few and as easy as might be, consistent with the good government of the city and the peace of the kingdom, his majesty only requiring their submission to these regulations: First, that no lord-mayor, sheriff, recorder, common-serjeant, town-clerk, coroner of the city of London, or steward of the borough of Southwark, should be admitted to the exercise of their respective offices before his majesty should have approved them, under his sign manual. Secondly, that if his majesty should disapprove of the choice of lord-mayor, or sheriffs, and signify the same under his sign manual to the lord-mayor, or, in default of a lord-mayor, to the recorder, or senior alderman, the city should, within one week, proceed to a new choice, which if not approved his majesty should fill up the vacant offices himself. Thirdly, that the lord-mayor and court of aldermen might, with leave of his majesty, displace any alderman, recorder, common-serjeant, town-clerk, coroner of the said city, and steward of the said borough. Fourthly, upon the election of an alderman, if any of the persons that should be presented to the court of aldermen by the ward, should be adjudged unfit, upon such declaration of the said court, the ward should proceed to the choice of other persons, or so many of them as were so disapproved; and if the court should disapprove the second choice, they should have power to appoint in their room. Fifthly, the justices of the peace to be by the king's commission. That these regulations being made, his majesty would not only pardon the prosecution, but confirm the charter in such a manner as might be consistent with them; a favour which the city ought to look upon as a great condescension on his majesty's part,

part, it being but in the nature of a reserve of a small portion of what was already in his power by the judgment, and of those things which would conduce as much to their own good and quiet, as to his service; that the term drew near, and Midsummer was at hand, when some of the officers used to be chosen, whereof his majesty would reserve the approbation to himself; therefore it was his pleasure that the lord-mayor should return to the city, and consult the common council: and, that they might see the king was in earnest, and the matter not capable of delay, the lord-keeper was commanded to let them know, that his majesty had given order to the attorney-general to enter up judgment on Saturday next, unless he was prevented by a compliance in all particulars.

It is said, that the tender mercies of the wicked are cruelties, and sure there are no insults more severely felt than the oppressions and exactions of power, when clothed with the specious pretences of moderation and justice. When these proposals, which effectually destroyed all the rights of the citizens, and which were accompanied with such terrors as gave them the force of a mandate, were debated in the common-council, the question was carried for a submission, by a majority of eighteen voices; when, without demanding the sense of a common-hall, or any consultation with the livery, whose privileges were so particularly affected, the sheriffs on the next day waited on the king, to inform him of the compliance of the city to his proposals; as also that they had put off the election of sheriffs from the 24th of June to the 6th of July. As a mere verbal declaration might, in time, admit of disputes, the citizens were required to sign their submission to the king's regulations: this either on motives of shame, fear, or compunction, was not immediately complied with, and the matter hung so long in suspense that the king directed the judgment to be entered. Thus the city of London, which in all changes and revolutions had preserved its power, authority, and



Ann. 1683. independence, now fell a sacrifice to the treachery of its own citizens, and the base corruptions of the courts of law; its government was entirely taken into the hands of the crown, and the courtiers had the insolence to vaunt the king's clemency in not setting up an exchequer for its revenue, or granting a commission as upon an escheat to the crown.

THE success which attended the attack on the city-charter, encouraged the court to proceed in a similar manner against every other borough and corporation in England; and, in order that these prosecutions might be more effectually carried on, a committee was named by the king to receive informations. Among other corrupt statesmen, Lake, bishop of Chichester, the duke of Ormond, and the marquis of Halifax, joined with the meanest of mankind, in promoting the surrenders and the forfeitures of charters: at their instigations the most sacred oaths were violated, and the most sacred trust betrayed; and when the integrity of the magistrates forbade all hopes of a surrender, the most trifling deviations from the terms of ancient charters, the most insignificant offences committed by the officers of boroughs, even against the most obsolete laws, were made the pretences for forfeiture. The charter of St. Ives was attacked, because that borough had four constables instead of the original number of three, and three serjeants of mace instead of two; the city of Oxford, because it had five aldermen, when the charter gave only four; because the fair was kept in one place instead of another; and because Stephen Kibble had signed himself the king's clerk instead of the town-clerk. Considerable sums were exacted for restoring the charters, and all offices of power and profit were left at the disposal of the sovereign; a precedent which left no national privilege in security; and as it enabled the king to pack juries, and model Parliaments at pleasure, destroyed at one stroke the liberties of the constitution, and, under the old forms of government, established a corrupt and oppressive system of tyranny.

THE

THE dissolution of the confederacy, by the treaty of Nimeguen, Ann. 1683. had enabled Lewis to play the tyrant in Europe with an influence superior to what he had assumed in the beginning of the war; he not only kept possession of several of the towns which he was bound to evacuate, but usurped the sovereignty of Alsace, erected a new court of appeals at Metz, obtained possession of Strasbourg, a chief of the empire, by corrupting its magistrates; and when, to prevent his becoming master of the Low Countries, the prince of Parma, governor of the Spanish Netherlands, had begun the fortifications of Bovignes, he received an imperious message from Lewis, that not one palisado should be erected. The sovereign chamber, which had been established at Metz, made no scruple to declare, that the far greater part of the dutchy of Luxembourg and its dependencies were a part of the bishopric of Metz; and having summoned the city of Creutznach and Frankendal, as belonging to the bishopric of Verdun, the French king, without farther ceremony, bestowed them as a present on the prince of Birkenfeldt, and till the surrender was actually made, a body of troops under the command of Monsieur de Boufflers, had orders to march into the bailliage of Alzey, and live at discretion. On the side of Flanders, in addition to the pretensions on Luxemburgh, a peremptory demand was made of the county of Chinay, and all its dependencies; which was followed with a declaration that if they were not delivered up, the count of Bissi should have orders to take them by force, in which case all the soldiers found on the premises should be sent to the gallies. This notorious violation of common decency, as well as justice, gave the Spaniards the most sensible provocation. Unequal as they were to contend with the arms of France, they gave orders for a vigorous defence; they called upon the States-general to stand by them; and they renewed their importunities to the court of England for their assistance,

Foreign affairs.



Ann. 1683. assistance, in virtue of the defensive league subsisting between the two nations. The possession of the town of Strasburgh had raised Lewis to such a footing in the empire, as to give grounds for apprehension that he would be enabled to crown his usurpations by securing to himself, or his son, the title and dignity of king of Romans; but the emperor was in no condition to contend: his religious bigotry had occasioned a revolt among his Hungarian subjects, who had called in the Turks to their assistance; and it was with some difficulty that his imperial majesty could defend his own immediate territories from the joint assault of domestic insurrection and foreign invasion. Whilst Mr. Sidney was negotiating a treaty of alliance with the States, some very flattering proposals had been made to them by the French king, which had been rejected on the assurance, that when their distresses should demand it, the king of England would summon a Parliament, that by the powerful support of this assembly he might be enabled to give them an effectual assistance. In order to put the king in mind of his engagements, and to reconcile differences in a manner as should render him capable of fulfilling them, the prince of Orange, by the advice of his two friends and confidants, Temple and Godolphin, paid his uncle a visit in the spring of the year 1681.

Dalrymple's  
Appendix.

THE duke of York, who was at this time in Scotland, and from the knowledge he had gained of the part the prince had taken on the exclusion bill, had conceived as high a degree of jealousy of his son-in-law as of his nephew, the duke of Monmouth, testified his apprehensions on the subject of their mutual interest, in a letter to Lewis: however, he received assurances from Charles, that the prince of Orange should not oblige him to change the measures he had taken; and so firmly did this prince keep to his resolution, that all the answers given to the pressing instances of the ambassadors of the States-general,

neral, and the king of Spain, were previously concerted with Barillon. A variety of mean artificers were used to elude the giving that assistance to which the States were entitled by promise, and the king of Spain by promise and treaty \*; and Charles at length descended to so infamous a degree of treachery and baseness, as to agree to allow the French to seize Luxemburgh, for the emolument of one million of livres; nay, so universal was become that corruption and depravity which the example of the court had spread, like a contagion, through the whole nation, that, according to the intelligence given by Barillon to his master, the lord Arran, son to the duke of Hamilton, had offered to raise a Scotch regiment for the service of Spain, but was stopped from performing his promise by the hopes of receiving money from France. Previous to the prince of Orange's arrival in England, Charles had taken some disgust on the prince's refusal to dismiss Mr. Sidney from the command of the British forces in the service of the States, in favour of Mr. Skelton, whom the king had warmly recommended; and though from that profound dissimulation which the uncle and nephew were equally capable of, no mark of resentment on either side appeared at the meeting, yet it was far from cordial; and that mutual animosity which an opposition of views, interest, and conduct, had occasioned, was highly increased during the prince's short abode in England, by his continually pressing the king to fulfill his engagements to the States, in calling a Parliament to their assistance; by the apparent intimacy which subsisted between his highness and the Exclusionists; and by the publication of a paper, calculated to open even the blind eye of party, on the dangerous progress of the power of France by land and sea; Barillon, in a letter of the 13th of November, 1681, wrote to Lewis, that Charles had avowed to him, that he had promised to Spain to call a Parliament, and give them assistance, but he intended neither.



Ann. 1683. sea\*, on the advantages it gained annually by its trade with England, and on the necessity of a general confederacy taking place between the maritime powers of Spain, Sweden, Denmark, England, and the States, to cut the nerves of the French power, by destroying their trade and naval force, whilst the princes of the continent should endeavour to put Lewis on the defensive, by carrying the war into the bowels of his kingdom.

Death of  
prince Ru-  
pert.

The close of the year 1682, is rendered remarkable by the decease of prince Rupert, who died of a pleuritic fever, in the sixty-third year of his age. This prince was of a martial spirit, and had made a very considerable figure in the civil wars of England; but at this period of time he seems to have been very deficient in that cool judgment which alone constitutes a great general, or insures success to the valiant; and his impetuosity of temper never failed to lose him all those advantages which his personal bravery had acquired. This defect in his disposition and conduct, which appeared in a variety of different occasions, which rendered him peculiarly obnoxious to that party who

In this publication it is set forth, that the naval strength of the French had been of so swift a growth, that for one trading ship which they had in the year 1660, they had now forty; that they had established a fishery at Newfoundland, though the property of England; that they had opened a channel of traffic both to the East and West Indies; that the king of France was already without a rival by sea; that he had given orders to his officers and commanders to assert the sovereignty of the seas circumjacent to his colonies; that a great part of the wealth of Europe already centered in France, and that his subjects were annually gainers by the trade of England 1,500,000 l. that the addition of the Dutch commerce and maritime strength would lay the rest of Europe at his feet; that England alone could prevent his making that mighty seizure; that the Netherlands were the out-works of England, and that the day of their subjection would be the eve of the subjection of the English.

espoused

espoused the cause of the Parliament, and at length occasioned a quarrel between him and his uncle Charles the First, appears to have been totally corrected by those two great instructors of mankind, time and experience. He distinguished himself as a great naval commander during the reign of Charles the Second; and his politics, which took their bent from his affection to the Protestant cause, was so well tempered with prudence and moderation, that he acquired the respect and confidence of the popular party without entering into any open quarrel with the court; and as the zeal which he expressed for the liberties of England, and the independence of Europe, was unmixed with any selfish alloy, for we do not find that he was complimented by the party with any hope of succeeding to the hereditary honours and power of the duke of York, he undoubtedly deserves the respect and the attention of posterity.

It is an unfortunate circumstance in the character of man, that adversity is much more favourable to human virtue than prosperity; and never was this observation more clearly illustrated in any individual than in the conduct of the duke of York. During the storm which hung over the fortunes of this prince, whilst excluded by the votes of a third part of the legislature from succession to the throne, his behaviour in Scotland was of a nature which conciliated to him, in a great measure, the affections of all parties; and though he gave his countenance and support to the Episcopalians, yet matters of dispute between the two factions were carried with such moderation that neither side had any just reason of complaint. This judicious conduct was pursued for some time with great temper, and as great success, but no sooner was the power of the Exclusionists broken, by the dissolution of the Oxford Parliament and the factious spirit of the clergy, and the crown enabled to give the law equally to both nations, than the duke's assumed philanthropy disappeared, and gave way

Affairs of  
Scotland.



Ann. 1683. way to that unrelenting spirit of severity, bigotry, and oppression, which accompanied this prince through all the sunshine of his fortune.

In order to keep up a spirit against Popery, the ceremony of an annual Pope-burning had been celebrated in London, and had not with the connivance of the magistrates, till that happy period of reformation, when the king, by the election of his own creatures into the office of mayor and sheriffs, had the government of the city in his power. The imitation of this ceremony was attempted by the students of Edinburgh on the Christmas-day of the year 1681; but the Lord Provost having got notice of the design, it was by him conveyed to the duke, and the principal of the college had orders to extort a promise from the students to desist from the undertaking: on this being refused, two English gentlemen and some few others, who were supposed to be the ringleaders, were apprehended, and by the city magistrates committed to the custody of the soldiery: a proclamation was set forth forbidding all merchants, tradesmen, &c. to suffer their apprentices or servants to go abroad on Christmas-day; and further to deter the students from executing their purpose, the town was filled with the military. These precautions rather increased than abated the zeal of the students; with a true spirit of Quixotism, they issued out in a body, and being joined in their way by numbers of the townsmen, made shift to set fire to their pageant, and then they dispersed: the English students, after being threatened to be put to the torture if they did not confess who was the first mover of this knight-errantry, were discharged, on the giving security for appearing before the council when called upon. But the dispute did not end here: the soldiers, who took all occasions to insult the students, cleft one of them through the skull before the gate of the college. This raised the indignation of the students

to such a height, that they appeared before the provost of Edinburgh's house, with blue ribbands in their hats, inscribed "No pope." In passing thro' the streets they were joined by the populace, and the whole town resounded with the offensive cry of "No pope, no pope." Unfortunately one of the students had rashly said, that the provost deserved to have his house burnt; this incident really happened; the students were accused of the fact, but, as upon the strictest examination, no positive proof appeared, a proclamation was issued, in which it was asserted, that the firing of the house could be imputed to none but them, and in which all those who could not, or would not find security for their good behaviour, were commanded to depart fifteen miles from Edinburgh in the space of twenty-four hours. The schools were likewise, by order of the council, shut up; and though the principal objected, that a college established by act of Parliament could not, without the authority of Parliament, be dissolved, and desired to have the matter argued by lawyers before the council, yet no regard was shown to the plea. The college continued shut up for near two months, when at the instance of the magistracy of Edinburgh, as well as the principal and regents of the college, it was again opened, on condition that all the students that were re-admitted should give the security before required, should take the oath of allegiance, and sign an engagement to attend divine worship as by law established.

Meanwhile the administration of Middleton, who had established the crown in all its ancient prerogatives, nor the more daring management of Lauderdale, who had carried its supremacy so high as to procure a parliamentary declaration, that the settling all things relating to the external government of the church, was a right of the crown; and that all things relating to ecclesiastical meetings, matters, and persons, were to be ordered according



According to such directions as the king should send to his privy-council, had established things on the footing necessary to produce such a reformation in religion and government, as were intended to take place in the two kingdoms. To finish, therefore, what these great ministers had left undone, at the duke's instance a Parliament was assembled in the year 1681, in which his royal highness, agreeable to his particular request, presided in the character of the king's commissioner; and to shew plainly to this assembly, that their business was not to remove the complaints of the subjects, but to strengthen yet farther the hands of the government, the king, in a letter, after asserting that the happiness of the people was best preserved by preserving the power of the crown, signified his expectation, that the Parliament would not connive at the smallest appearance of those wicked and seditious principles, which, how plausibly soever disguised under the old pretences and fallacious marks of liberty and religion, ever least minded by the most clamorous pretenders to them, yet in the issue led to such monstrous effects and rebellious extravagancies, as necessarily tended to the dissolution of all government and order. The Parliament were moreover told, that the king had appointed the duke his commissioner, as an eminent expression of favour to his people; but as Papists were by the laws of Scotland rendered incapable of holding places of trust or profit, proposals were made to the duke of Hamilton by above forty members of Parliament, to take the lead in an opposition to this encroachment: the duke excused himself on the plea, that he was weary of striving in vain against a torrent of irresistible power, and was rewarded for his prudence with a place in the council, and an English peerage. All difficulties being thus removed by this defection in the great leader of the popular party, the duke began his commission by promising in the king's name, that the episcopal government of the church should be inviolably maintained, recommended such courses as

should most effectually suppress seditious and rebellious conventions, and signified his majesty's expectations, that they would not be short of the loyalty of their ancestors, in vigorously asserting and clearing his royal prerogative, and in declaring the rights of his crown in its natural and legal course of descent, as also in taking care to provide seasonable and necessary supplies. Ann. 1685.

THE Parliament did not disappoint the expectations which had been formed by the king and his commissioner; they granted a large supply, and voted the indefeasible right of succession; they subjected the several independent jurisdictions in the kingdom to an appeal to the king's will and pleasure; and, when the popular party called for the performance of a promise which had been given in the beginning of the session, that, as soon as the act for maintaining the succession was past, the Protestant religion should be yet further secured by any other expedient which could be proposed or desired, and offered a test, which consisted at first of no more than a profession, upon oath, of the Protestant religion, as also a resolution to maintain it, and an unreserved acknowledgement of the king's supremacy, the courtiers had sufficient weight to add to it many other important clauses, such as the solemn disavowal of resistance for any cause, or any pretence whatsoever; an engagement as solemn, never to join in any endeavour to alter the government in church or state, a renunciation of the covenant, and a declaration that it was unlawful for subjects to enter into any covenants or leagues, or to hold any meetings, in order to deliberate or determine on matters of state, civil or ecclesiastic, and an obligation to maintain all the king's rights and prerogatives. The famous Fletcher of Saltoun, after long opposing this destructive test, with all the fire and energy of ancient eloquence, moved, that the Protestant religion should be more particularly secured by a special clause in



Ann. 1683. the test. This the courtiers could not in decency oppose, and the clause being committed to the care of Lord Stair, president of the sessions, this nobleman artfully expressed the Protestant religion to be that which was contained in an old Scottish confession of faith, which not only was adverse to prelacy, but admitted the lawfulness of resistance. According to Burnet, it was owing to the total ignorance of the bishops and the courtiers that such offensive matter was contained in this confession of faith, and also to their implicit confidence in the person who drew it, that the clause passed unnoticed, and thus modelled was a medley of contradiction and absurdity, as it inferred an obligation to conform to any religion which the king pleased, and yet to adhere to the Presbyterian religion; to oppose prelacy, and yet to maintain the present constitution of the church, which was episcopal; and to renounce, and yet affirm, the doctrine of resistance. The lord Belhaven having said in the course of the debate, that though the bill did abundantly secure the Protestant religion against Popery and fanaticism, it made no provision against a fanatical and popish successor, he was instantly sent a prisoner to the castle by the Parliament, and the lord-advocate declared, he would impeach him for these words. Lord Stair was removed from his seat of judgment, and so harrassed by persecutions, in the court of justiciary, the privy-council, and the Parliament, that he was at length obliged for safety to fly the kingdom. Fletcher of Saltoun found himself under the same necessity, and to crown that system of oppression, which had ushered in the duke's administration, a plan was laid to deprive the earl of Argyle of his fortune and his life.

This nobleman had, from his youth, distinguished himself by his attachment to the royal family, and by acting in opposition to the politics of his father. By his respectful behaviour, and by his services, he made himself very acceptable to Charles whilst  
this

this prince was in Scotland. He continued under Middleton to harass and infest the victorious English, even after the decisive defeat of the Scots at Worcester; and it was not till he had received orders from his general, that he would submit to accept of a capitulation: he was soon after committed to prison by the usurper, and his confinement was rigorously continued till the Restoration. In the subsequent part of this reign, Argyle behaved with such conformity to the temper of the administration, as even to live with great cordiality and friendship with the duke of Lauderdale: however, after the discovery of the popish plot, the earl's zeal for religion unfortunately led him to take out a commission to disarm the Papists. This drew a kind of war upon him from the chief of the Macdonalds, who, when a herald was sent to him from the privy-council, requiring him to disband his forces, not only refused obedience, but tore the coat from off the herald's back, and with these marks of contempt sent him to Edinburgh. Macdonald was never called in question for this act of defiance, a circumstance of sufficient weight to convince Argyle, that religion and loyalty, according to the courtly sense of this word, are not always inseparable qualities: however, when the duke came into Scotland, the earl gave him strong assurances, that he would adhere to his interest in every thing, except in matters of religion; but added, that if he attempted to meddle with these, he would oppose him with all his power. The offence taken at this freedom, was afterwards highly aggravated by the earl's refusing to enter into any engagement to support the duke against the king's authority, in case his majesty should give way to the demands of the Exclusionists. When matters of religion were canvassed in Parliament, the earl of Argyle, agreeable to the resolution which he had declared to the duke, exerted his influence as one of the lords of the articles with such success, that to an act, ratifying all former acts made for the security of the Protestant religion, were added these words, " And all acts  
against

Ann. 1683.



Ann. 1683. against popery:" and though the duke told the earl, that he would do well to be upon his guard, yet his zeal so far overcame his prudence, or his sense of danger, that when the courtiers proposed it as a necessary mark of respect, that the princes of the blood should be excepted from taking the test, the exception was zealously opposed by Argyle, who observed that the sole danger to be dreaded for the Protestant religion, must proceed from the perversion of the royal family. This was more than sufficient to fill up the measure of the earl's iniquity: two bills were preferred against him, the one by lord Errol, to make his estates answerable for certain debts to which it was alledged the lord Errol stood bound as a cautioner for the late marquis of Argyle, the earl's father; and the other by his majesty's advocate, to deprive the earl of his heritable offices of sheriff, &c. and of justice-general of Argyleshire. In the earl's reply to these bills, it appeared, that the marquis of Huntley, a Papist, who was under the duke's patronage, and who was not only deeply in debt to the Argyle estate, but who enjoyed a very large revenue by gift from the crown out of the late marquis's forfeitures, would be more a sufferer by the former of these bills than the earl, and that the king would be equally a sufferer in his prerogative by the latter; the proceedings therefore in this business were stopped for the present, and a more certain though less decent method of procuring the earl's ruin adopted.

WHEN the test came to be maturely examined by several persons, those who were the most attached to the crown on the reason of its inconsistencies, scrupled to take it. The earl of Queensbury refused to swear, except he might be allowed to add an explanation; and the privy-council thought it necessary to publish, for general satisfaction, such an explanatory vindication as might render the taking it less repugnant to tender consciences.

WHEN Argyle took the test, as a privy-counsellor, he sub-  
 joined, in the duke's presence, an explanation which he had  
 before hand communicated to that prince, and which he be-  
 lieved to have been approved by him, in the following words:  
 "I have considered the test, and am very desirous of giv-  
 ing obedience as far as I can; I am confident the Parliament  
 never intended to impose contradictory oaths, therefore I think  
 no man can explain it but for himself: accordingly I take it as  
 far as it is consistent with itself and the Protestant religion; and  
 I do declare that I mean not to bind myself in my station, and  
 in a lawful way, from wishing and endeavouring any alteration  
 which I think to the advantage of church or state, and not  
 repugnant to the Protestant religion, or my loyalty." When the  
 earl took the test again, as commissioner of the treasury, he  
 was ordered to sign a note of the explanation; and a few days  
 after an order was served upon him, by one of the clerks of  
 the council, to enter himself a prisoner in the castle of Edin-  
 burgh. This order he obeyed with great resignation, repaired  
 to the castle in a hackney-coach, refused the attendance of se-  
 veral persons of quality, who made an offer to accompany him,  
 and wrote a letter to the duke, in which he begged to know  
 what satisfaction was expected of him. After a previous inti-  
 mation to the king, the earl was indicted first of slandering and  
 depraving, and afterwards of treason and perjury. According to  
 the laws of Scotland, the prisoner had a right to council: but  
 the duke having threatened Sir George Lockart, that if he un-  
 dertook for the earl he should never more plead for him or the  
 king, the earl was necessitated to take a voucher before a pub-  
 lic notary, that he had required the said Sir George to plead  
 for him, and that for his own safety he had refused so to do,  
 without express authority from the council; and also to give  
 out that he would not utter one word at the bar, by way of  
 defence, unless he had the benefit of the laws before he could  
 obtain

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Ann. 1683. obtain the assistance of his favourite advocate. Lockart performed the duties of his office with such spirit and clearness, as left not the least shadow of excuse for the bare-faced injustice of the court, which consisted of the earl of Queensbury, as justice-general, and the judges Nairn, Collingtoun, Forret, Newton, and Kirkhouse, as assistants. As the justice-general does not vote unless the court are equally divided, judge Nairn, who was superannuated and so infirm that he could not attend at the time the trial lasted, was called out of his bed to turn the scale against Argyle; and sentence was accordingly pronounced from the bench, that the prisoner was guilty of treason and leasing-making and leasing-telling, but that the charge of perjury was wholly remitted to the consideration and judgment of the jury. The surprize and astonishment of the earl and his counsel, at the iniquity of this sentence, was sufficiently great to overcome all opposition: they considered the judgment to have been absolutely predetermined, and they resigned themselves to the necessity of the issue, without making those obvious objections which lay against the jury, three of them being privy-counsellors, who had absolutely forestalled their verdict; and the others had been all practised upon, or had partially advised or solicited against the prisoner; according, therefore, to expectation, these conscientious noblemen, to the number of fifteen, of which the marquis of Montrose, grandson to the famous Montrose, acted in the capacity of chancellor, unanimously found the prisoner guilty: however, to make a shew of impartiality, the three privy-counsellors having allowed that they had heard the earl's explanation the first day, he was acquitted, by a small majority, of the perjury. In this infamous manner did the Peers make a sacrifice to the personal resentment of the duke of one of their own fraternity; and though the conduct of the Scotch nobility and gentry, through the whole of this reign, appears equally liable to censure and contempt, yet Burnet attempts to

account for the depravity of their proceedings in the earl of Ar-  
gyle's case, to the vacancy of several lucrative offices by the death  
of the earl of Rothes and others.

According to the advice given by the privy-council to the  
king, an advice which the duke had in a manner extorted even  
from the earl's own friends and relations, directions were sent  
from the court, that the sentence of death should be pronounced  
against the earl; but the execution of it to be suspended till far-  
ther orders. It was pretended by the duke and his creatures, that  
Argyle's life and fortune were not in any danger; and that the  
sole reason for pushing the trial to such extremities was in  
order to make him renounce his hereditary jurisdictions: but he  
had himself offered to submit to these conditions, and so many  
steps were taken to convince him that the duke intended to push  
matters to the utmost extremity\*, that on the eve of that day  
in which it was determined that he should be brought down  
from the castle to the common gaol, from whence criminals are  
usually carried to execution, he thought it prudent and ne-  
cessary to attempt an escape, which he fortunately effected by  
changing cloaths with his sister; when, instead of being de-  
clared an out-law, which, according to the old laws and customs,  
was the utmost he had to apprehend, the lords of the justiciary  
made no scruple to decree and adjudge, that, as a traitor con-

\* The circumstances which highly aggravated the duke's anger against  
the earl was, an opposition which he had made in council to such a general  
explanation of the test, which, under the notion of removing the scruples  
of the orthodox clergy, left a door open to the Papists; and when the earl  
waited on the duke, to expostulate with him on the unexpected objections  
which had been started to his explanation, he was told by his royal high-  
ness, that he, the earl, and others, had a design to bring trouble on a hand-  
full of poor Catholics, who would live peaceably, however they were used,  
but that it should light on others.



Apr. 1683. vict, he was liable to all the penalties of treason; that he should be put to death when apprehended, at what time and in what place and manner his majesty should think fit to ordain; that his name, memory, and honours, should be extinct; that his posterity should be incapable of honour, place, and office; and that his estates, goods, and chattels, should be forfeited.

The unprecedented severity and injustice of this whole proceeding, whilst it gave an alarm to every thinking individual in the three kingdoms, in a very particular manner affected the whole party of the Exclusionists: even many of the royalists perceived with anxiety, that no past services would be received as atonements for the want of the most implicit obedience to the duke's will: if such was his vicegerency, what was not to be dreaded when the possession of the sceptre should add strength and permanency to his power; and if the earl of Argyle was to be thus inhumanly sacrificed, for having refused to take arms against the king; if this monarch should ever be induced to pass the exclusion bill, what mercy could be expected by those who had set that noxious bill on foot, and who had openly declared, that they would never suffer his royal highness to take peaceable possession of the crown, nor submit to live peaceably under his dominion.

On the first opening the sessions of Parliament, the lord Halton, brother to the duke of Lauderdale, was accused by one of the members of perjury, in the prosecution of Mitchel; he also was accused of a conspiracy against the lord Bargenny, nephew to the duke of Hamilton, who had been confined in prison on the pretence of his having been engaged in the battle of Bothwell Bridge, and who had witnesses ready to produce, that several persons had been practised upon to swear treasonable mat-

ters against him. These offences were so fully proved against the lord Halton, that he must necessarily have met with the punishment he deserved, if the duke had suffered the business to be determined in a parliamentary way; but, in order to screen the culprit from the infamous part of the penalty, and in the view of obtaining some pecuniary advantage from the circumstance of his guilt, it was moved by his royal highness, that the whole affair might be referred to the king: this was immediately agreed to. The lord Halton, on some farther complaints of great abuses in the matter of the corn, was turned out of all his employments, and obliged to compound for his pardon, by paying twenty thousand pounds to two of the duke's creatures. Thus the duke, who had been inveighing with great bitterness for upwards of three years past, against the mischievous crime of perjury, could exert his authority and influence to stop proceedings against it, when it did not affect his own party; and thus by the criminal acquiescence of a corrupt Parliament, the kingdom was deprived of any reparation for the oppression of a series of years, and for many flagrant acts of injustice, whilst they had the mortification of beholding two new oppressors loaded with the spoils of the guilty, and who, according to Burnet, went on in the same tract, or rather invented new methods of injury and extortion.

LAUDERDALE, whose influence and authority declined in Scotland as the duke's increased, and who had now lost all the sunshine of court-favour, began to sink under the weight of mortifications to which he had been little accustomed; and at length, under the pressure of a vast bulk of flesh, and a yet greater load of iniquity, finished the course of his profligate and corrupt life: he died in the summer of the year 1681; and though saved by the factious spirit of the times from that exemplary pu-

ishment



Ann. 1683. hisment which he so highly merited \*, yet undoubtedly he experienced, either in the compunctions of conscience, the pangs of mortified pride, or, perhaps, in a combination of these and other sources of mental pain, a small part of the sufferings which must ever attend individuals who depart from all those principles of virtue and wisdom on which the excellence and happiness of rational beings must at all times and in all situations depend.

When the king, by becoming master of England, had silenced the clamours of the Whig party, he called upon the duke to assist him with his counsels. The two brothers had a conference at Newmarket; and it was in this place determined, that when the duke had put the government of Scotland on a proper footing, and placed it in confidential hands, that he should again make England the place of his residence, in order to take a lead in the administration. The duke when he returned to Scotland, chose to take his passage by sea; the ship through the ignorance of the pilot, struck on a sand-bank and was lost; the duke escaped in the barge, and through his great concern to save a heavy box of papers, which, he said, were of such consequence to the king and himself, that he would hazard his existence rather than they should be lost, and through the great anxiety of Leg, afterwards earl of Dartmouth, to preserve so precious a

\* We are informed by Burnet, that a letter fell into the duke of Hamilton's hands, which had been written by the duke of Lauderdale to the king, in the year 1669, at the time when the act for raising forces to march wheresoever the king should order, was obtained of the Scotch Parliament, in which were such unconstitutional, or rather treasonable insinuations, that it was intended to have founded an impeachment on it; but the hot pursuit of the duke's exclusion postponed all considerations of other matters, and the dissolution of the Parliament rendered it afterwards impracticable. The letter was given by the king to Sir Robert Murray, and when he died came into the possession of his executors.

life as was that of his royal highness, several persons of all ranks and quality, among whom was Hyde, the duke's brother-in-law, was unfortunately drowned. It is also observable, that this accident was remarkable for two very extraordinary circumstances: the one, that the only person whom the duke discovered a great desire to save, was colonel Churchill, afterwards duke of Marlborough; and the other, that when the mariners, who had been left to perish in the wreck, saw his royal highness safe in the barge, they gave three huzzas whilst their vessel was sinking; shouts which, it is to be imagined, might have made the duke reflect, that subjects capable of such generosity merited all that tenderness and regard which persons in his station are capable of shewing.

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Dalrymple's  
Memoirs.

THE duke, according to the liberty he had obtained of disposing of power in Scotland as he pleased, placed the administration of this country in the hands of his own creatures, the lords Queensberry, Perth, and Aberdeen; and, agreeable to what was expected, a very arbitrary spirit appeared in the government. The proceedings against conventicles were more severe than ever; fines, which had never been levied but in some particular instances on account of their extraordinary height, were now levied without mercy; and as the women in general had not resorted to church, such an accumulation of these kind of penalties, it was pretended, were incurred by their husbands, that the whole property of the greatest part of the gentry and nobility lay at the mercy of the crown; a circumstance which operated so strongly in favour of conformity, that the churches were immediately filled: but tho' such an affectation prevailed of contempt for the worship and doctrine of the church, that the congregations were observed to be either talking, or sleeping, the whole time of divine service; yet the clergy were well pleased with this forced attendance: they sent up many high panegrics of the glorious  
advan-



Ann. 1681. advantages which the duke had procured for the church; and the bishops paid their court to him with so much zeal, that they wrote a letter to the archbishop of Canterbury, to be communicated to the English bishops, setting forth, in a very exalted strain, his royal highness's affection to the church; and his care of it; and lest the merit of the intente should be stifled, they sent a copy of their letter to the press. However, according to Burnet, the enemies of religion failed not to take advantage of the persecuting spirit of one party, and the unconscientious compliance in the other; and that hence an impious and atheistical leaven began to corrupt the youth, which afterwards made a considerable progress among the Scotch, who were before the freest from it of any nation in Christendom.

This was the state of spiritual matters in Scotland. In the line of civil government towards the end of the year 1682, one Home was charged by one of his kinsmen with having been at Bothwell-bridge; and, on the evidence of this single witness, though Home brought sufficient proof that he was not in the company where the witness swore he saw him seize on arms, he was condemned and executed; and to distinguish the execution rather as a triumph of party, or rather as a compliment to the duke, than an act of legal justice, the day of his suffering was appointed to be the same day of the year on which lord Stafford was beheaded. It is also observable, that the infamous informer died before the execution of his kinsman, full of compunction and horror for the villainous part he had acted. This flagrant stretch, or rather breach of law, was succeeded by another, which gave a yet more general alarm on account of the extent of its consequences. A gentleman, of the name of Weir, was accused of treason, because he had kept company with one who had been in rebellion, though the person had never been marked out by process

protests or proclamation. Corrupt as were the courts of justice, Ann. 1683. Weir, who had consulted the lawyers on the subject, regarded the prosecutions in so trifling a light, that he made use of no personal application to screen him from the malice of his enemies; when, to the equal astonishment of himself and the public, the judges, on his trial, pronounced him guilty of the treason with which he was charged, on the plea that no man could have been in the rebellion without being exposed to suspicion in the neighbourhood; that all men who suspected any to have been in rebellion, were bound to discover their suspicion to the government, and to avoid the company of traitors, and to fail in this duty, was to participate of the treason. This, observes Burnet, was the shameless conduct of a set of men, who had been, for forty years together, declaiming against a parliamentary attainder for a constructive treason, in the case of the earl of Strafford; and did now, in a common court of justice, condemn a man upon a train of so many inferences, that it was not possible to give it even the colour of a constructive treason. It was with some difficulty that a reprieve was obtained for Weir; and it was seriously determined to make use of the precedent. Courts of judicature were erected in the southern and western counties, and a strict inquisition carried on against this new species of crime. All those who did not procure their pardon, by taking the test, were to be under the scourge of these courts for the space of three years; at the expiration of which time, an act of indemnity was promised.

THE Presbyterians were so highly alarmed at a tyranny, from which no man could deem himself safe, that they began seriously to think of leaving the country; and some of their agents were sent into England, to treat with the proprietors of Carolina, for a settlement in that colony. The duke encouraged the motion; he was glad to get rid of a set of men, whom he justly appre-



Ann. 1683. apprehended would be ready, on the first favourable opportunity, to assert the rights of humanity, and emancipate themselves from a tyranny which every day increased in severity, and which, in prospect, threatened the extremest misery which the nature of man is capable of suffering. In the view of eradicating from the minds of these wretched people all that fond partiality which men commonly feel for their native country, the persecution was carried on with an unremitted rigour; above two thousand persons were outlawed, on the pretence of their conversing, or having intercourse with rebels. They were continually hunted in their retreat by soldiers, spies, informers, and time-serving magistrates; and when no other pretence could furnish any excuse for oppression, the following ensnaring questions were put to people living peaceably in their houses: "Will you renounce the Covenant? Do you esteem the rising at Bothwell to be rebellion? Was the killing of the archbishop of St. Andrew's murder?" and when these unhappy people refused to answer, capital punishments were inflicted on them. A number of persons, rendered frantic by these wanton acts of cruelty and injustice, published a declaration, in which they renounced allegiance to the tyrannical government of Charles Stuart. On this incident, soldiers were dispersed over the country, and power was given to every commissioned officer to shoot all those they met with, who did not abjure the declaration. On the refusal of two women to take the oath, by which they were to abjure the declaration, they were condemned to the punishment of drowning; and in order to render their death lingering and painful, they were tied to stakes within the sea-mark at low water. The oldest of the two women, who had passed her youth, was placed farthest in, and by the rising of the waters was first suffocated. The younger, who had scarcely attained the age of eighteen, partly terrified with the view of her companion's death, and partly subdued by the intreaties of her friends, was at length prevailed on

on to say "God save he king:" the spectators immediately called out that she had submitted, and she was loosened from the stake; but major Wintam, the officer who guarded the execution, again required her to sign the abjuration; and upon her refusal, he ordered her instantly to be plunged into the water, where she was suffocated. These are a few instances of that violent and absurd persecution, which, as it was not enforced by an army of foreigners, reflects an equal disgrace on the people as on the prince. We shall not pretend to enumerate every particular, in which public violence, private malice, and criminal obedience, concurred to fill up the measure of guilt on one side, and wretchedness on the other; because they would be found in detail to be as tedious as they are shocking.

## C H A P. VII.

*Project of an insurrection. — Flight and death of the earl of Shaftesbury. — Rye-house plot. — Keyling's discovery. — Execution and triumph of the Tories. — Trials and execution of Walcot, Hunt, and Rouse. — Trial and condemnation of lord Russell. — Inflexibility of the king. — Execution of lord Russell. — Death of the earl of Essex. — Hypocrisy of the king. — Removal of Sir Francis Pemberton, and appointment of Sir George Jeffries to the office of chief-justice of the King's Bench. — Base conduct of the court. — Trial and execution of Algernon Sidney.*

**W**HILST measures were openly carrying on in Scotland, England, and Ireland, to bring the inhabitants of the three kingdoms under a total subjection to the power of the crown,



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a band of chosen patriots, who had opposed the conduct of administration in a legal way, as long as there remained any authority in the laws, and energy in the constitution, now prepared to seek relief by that solemn appeal to heaven, which is the constant resource of the brave, when the voice of freedom is put to silence by the power of oppression. The king, by securing the juries of the city, had now at his mercy the lives of all those who, on the principle of duty to their country, had exposed themselves to his resentment; by the disuse of Parliaments, he had put it out of their power to recur to constitutional remedies; and what was yet worse, should he alter the present plan of governing without the assistance of that assembly, he had, by making himself master of parliamentary elections in the boroughs, barred all legal opposition to his will. The cruel system of oppression coerced on the Scots served, at once, to aggravate the indignation and the fears of all those, whom faction and a spirit of persecution had not entirely bereaved of every manly sentiment, both as it displayed the unmerciful and tyrannical disposition of the two brothers, and as it seemed to rivet the chains of the English, by the power they had acquired over the martial spirit of this people, and the opportunity of pouring in an army of these northern savages, to destroy every vestige of liberty through the whole extent of the British empire.

Thus reasoned all those whose senses were not bewildered by the craft and subtlety of selfish and corrupt courtiers, and the pernicious doctrine of ambitious priests. It is true, that the

\* The word savage is to be understood in a limited sense, and is only applied by the author to those instruments of the king and the duke's tyranny, who, according to Mr. Hume, had rendered their native country as insecure to the persecuted party as a den of robbers.

timid and the cautious argued, that while so large a faction adhered to the crown, resistance, however justifiable, was not expedient; and that an unsuccessful rebellion would precipitately throw the nation into all those evils it was intended to redress: but unfortunately these prudent maxims were not adopted by the only illustrious individuals whom England, at this time, had to boast. Lord Russel, more dignified by the rectitude of his morals, and the amiableness of his manners, than by the nobility of his birth; Lord Essex, whom power could not corrupt, and who preferred his duty to his country to all the honours and emoluments which the favour of the sovereign could bestow; Hampden, who had imbibed those sentiments of liberty which has rendered the name of his grandfather, more illustrious than the most distinguished favourites of fortune; and Algernon Sidney, whose elevated sentiments, conduct, and literary talents, have added lustre to a long train of nobles and heroes, from whom he derived his descent, were of opinion, that the duty which they owed their country, called upon them to make use of the present opportunity to destroy a tyranny, which was, at present, in its bud; but which time and a regular military force would render irresistible. The duke of Monmouth, the earl of Shaftesbury, and Lord Grey, who, through the course of a dissipated and even a licentious life, had preserved the most genuine sentiments of liberty, with the Lord Howard, whose democratical principles had risen superior to the consideration of personal honours, who had been an active agent in all the popular cabals, during the course of this reign, and who had suffered a long imprisonment for his attachment to the party of Exclusionists, were united in counsels with these patriots. The city of London, with the gentry and nobility in several counties of England, were solicited to rise in arms. The earl of Shaftesbury, assisted by Ferguson, an independent clergyman, and a man of an active and a zealous temper, prevailed so entirely over the common timidity of citizens, that

Project of an  
insurrection.



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these mechanics were full of ardour and impatience to begin the attack on government by a rising in the city: But the duke of Monmouth, who understood the inferiority which lay between a multitude of raw men, and a small number of regular and disciplined forces, represented, that to insure success the insurrection should be begun in the country, which, by drawing the attention of the king's forces, would afford an advantageous opportunity for the rising in the city. The earl of Shaftesbury, who had been so much affected with a sense of danger from the power which the court had obtained over juries, as to hide himself in the suburbs of Wapping, and had kept up his correspondence with the conspirators only by message, exclaimed loudly against delay, and very justly represented to his confederates, that having gone so far, and trusted the secret to so many hands, there was no safety for them but in a bold and desperate prosecution of their purposes.

In a matter, he said, which was too clear to admit of a doubt, it was needless to spend time in consideration; they had only to determine, whether they should attack their enemies with hopes of success, or wait till they were prevented by them, with a certainty of ruin! Even although the prospect of victory was less fair than it seemed, it was better to perish in a struggle for the cause of liberty than on scaffolds, where the forms of justice, on the side of government, would make the sufferers appear to fall by the laws, instead of falling in support of law. The citizens were prepared, already half in action, and if the seat of government and the king's residence was once secured, the rest of the kingdom would follow its fate: to the brave, the boldest attempts were easy; cowards alone met with insuperable difficulties; those who attacked were masters of their designs, but to men put on a sudden defence every thing was new, and every new thing terrible; in dispatch there

was

was all things to hope; in delay, every thing to fear. When Ann. 1683.  
 Shaftesbury found that these animating arguments could not  
 prevail over a caution which he justly deemed more dangerous  
 and destructive than the most daring enterprize, he lost all pa-  
 tience, endeavoured to blast the character of the patriots with the  
 party in the city, by accusing Monmouth of a secret correspond-  
 ence with the king; the earl of Essex, with making a bargain with  
 the court for the office of lieutenant of Ireland; the lord Russel  
 with being a dupe to the artifices of both; and threatened to put  
 himself at the head of ten thousand brisk boys in the city, who were  
 ready to follow his fortunes, saying, that as his alone would be  
 the danger, his alone would be the glory. The duke of  
 Monmouth, in order to pacify the ill humour of Shaftesbury,  
 and to prevent the ill consequences of what he deemed a pre-  
 mature rising, and also the effect of those ill impressions which  
 the earl was labouring to make on the minds of the citizens, at  
 the expence of himself and his associates, requested an inter-  
 view with the earl of Shaftesbury, or some of his friends, at  
 one Shepherd's, a wine-merchant, who was highly in the con-  
 fidence of several of the conspirators. Unfortunately for lord  
 Russel, he came to London the night before the intended inter-  
 view, on account of an illness of his uncle; and the duke of  
 Monmouth prevailed with him, for the sake of the common  
 cause, to accompany him to the place of appointment, which  
 the lord Russel was more inclined to do because he intended to  
 taste some of Shepherd's wines, in order to make a purchase.  
 In the evening, the duke of Monmouth, the lord Russel, the  
 lord Grey, and Sir Thomas Armstrong, repaired to the house of  
 Shepherd, where they found none but Ferguson and Rumsey,  
 two of lord Shaftesbury's confidants; on which the whole com-  
 pany inclined to go immediately back, but lord Russel called  
 for a taste of the wines, and while they were bringing them up,  
 Rumsey and Armstrong fell into some discourse concerning the sur-  
 prising



Ann. 1683. - rising the guards; Rumsey arguing for the possibility of the thing, and Sir Thomas Armstrong, who had commanded them, endeavouring to convince him of his mistake, whilst the lord Russell spoke not a word on the subject; but as soon as he had tasted the wine, went away.

Flight and  
death of the  
earl of  
Shaftesbury.

THE earl of Shaftesbury finding that he could not bring the conspirators into immediate action, after shifting the place of his concealment two or three times, fled to Holland; but not without having one interview with the earl of Essex and the earl of Salisbury, to whom he discovered, by his wild and distracted talk, all those fatal effects which the agitation of unruly passions have on the understandings of the most intelligent; and convinced his old friends and associates, that they had much more reason to rejoice than to repine at his absence. This conflict of rage and despair which agonized the mind of Shaftesbury, did not terminate but with the termination of his existence. In order to secure the protection of the States, he solicited the magistrates of Amsterdam to be made one of the upper burghers of that city; but had the mortification to sustain a refusal, through the intrigues of the English consul, who took care to put the Dutch in mind of the part the earl had formerly taken against their commonwealth. Thus did this unfortunate refugee, once the idol of a numerous party, once the terror of a government which he hated, and respected for his abilities even by those who were acquainted with his vices and imperfections, languish through a period of six weeks, surrounded only by a few inconsiderable refugees, and without receiving from the inhabitants of that place where he had sought an asylum, any of the common compliments usually paid to men in his station. These are circumstances which the firmness of a well-governed mind would have regarded with contempt; but Shaftesbury, whose every movement of public life had been directed by the impulses

impulses of revenge and ambition, whose turbulent temper had received no correction, either from the wisdom of philosophy, or the sentiments of religion, finished his existence in a manner which struck his attendants with horror, and afforded to his enemies a complete triumph \*. His furious temper, united to his great capacity, had done the cause of liberty and the friends of the constitution so much mischief, that he may justly be said to be the author of that short-lived, though ruinous power of the royal brothers, which proved so fatal to the most illustrious characters of this age: an eminent proof that the love of action, so inseparable to exalted virtue, is a very mischievous quality when it is not governed by benevolence and discretion; and that when the mind is left a prey to the tyranny of unruly passions, the extent of mental abilities and the vigour of imagination, by exalting our desires, enlarging our power of committing evil, and attracting the envy of mankind, becomes a real misfortune, and serves only to render us more distinguished, though less pitied objects of wretchedness.

As there is no man so unfortunate in his conduct, or whose vices are of so exalted and extravagant a nature, as to be incapable of receiving a considerable addition from the inventive powers of an envious and factious spirit, so the earl of Shaftesbury has been accused of forging the circumstances of the popish plot: but in all our historical researches, we cannot find any traces either of the earl's having been the original contriver of those circumstantial details deposed by Oates and Bedloe, or even of aggravating the contrivance of others; and if this had

\* In a letter to Sir Lionel Jenkins, giving an account of the death of the earl of Shaftesbury, it is said, that he continued to his last moments full of suspicions and fears; that he would not sleep except in his cloaths, to be ready to start up; and that he appeared to his friends and attendants to keep his eyes open even when he slept.



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been the case, it is impossible, considering the low and corrupt characters of the witnesses, and the malicious vigilance of the court, that he should have escaped detection. It is also proper to observe, considering the manner in which the earl's character has been blackened, and the many faults which it is necessary for an historian to have observed in his conduct, that whilst he possessed the high office of chancellor, his decrees were equally remarkable for justness and integrity; and as he was the only man among the Cabal who had a sufficient sense of honour to withstand the corruptions of French bribery, even when countenanced by the example, and encouraged by the permission of his sovereign, it may justly be inferred, that the exceptionable and vicious part of his conduct, as a minister and patriot, neither lay in the baseness of his heart, or the defect of his judgment; and that the keen and galling passions of ambition and revenge, were the great corruptors of a noble nature. Whilst he governed the councils of the king, he could excuse, if he could not overlook his vices; but when the blandishments of court favour no longer dazzled his senses, and a keen sense of injury served to magnify every imperfection into a folly, every folly into a vice, and every vice into the highest degree of moral turpitude; an ineffable contempt and aversion took place of former complacency: nor can the sentiments of Shaftesbury, in regard to the king and his brother, be better described than in two ban mots, which equally display the readiness of his wit and the height of his scorn. When the king one day, either in jest or out of pique, said to Shaftesbury, "Thou art the greatest rogue in my kingdom," he answered, bowing, "Of a subject, Sir, I believe I am." And when the duke of York rated him in passionate terms, for one of his speeches in Parliament, he returned answer, "I am glad your royal highness has not also called me a coward and a Papist."

The

THE retreat of Shaftesbury, by the interruption it gave to any communication with the citizens, for some time put a stop to the proceeding of the conspirators, who, according to Burnet, came to a resolution to wait that period, when the violence of the duke's temper should have brought the nation again to their senses; and if there is any credit to be given to Mr. Carte's assertion, it is, in all probability, at this period that offers were made to the ministry of supplying the king's necessity without insisting on the exclusion bill, if his majesty would again condescend to meet his people in Parliament: but the rejection of this tempting offer, which had been seconded by the pressing instances of the foreign ministers, on the dangerous situation of Europe from the siege of Luxemburgh, and the certain method which was at this time pursued in destroying the efficacy of future Parliaments, by *quo warrantos*, extinguished at once every rational hope of re-establishing the freedom of the constitution in a legal way, and produced a more determined resolution to apply to the last and only resource, and to seek the redress of grievances in the way of arms. It was now that a more regular project of an insurrection was formed, and a communication which had been opened by Shaftesbury with the earl of Argyle and the Scottish malcontents, was renewed by the duke of Monmouth.

THE conspirators, though they agreed in the means of opposing the present system of tyranny, differed very widely in regard to the use they should make of their success. Sidney and Howard were passionate for a commonwealth; Essex, from a deference to the judgment of Sidney, embraced the same project; Monmouth had entertained hopes of acquiring the crown with certain limitations, to himself; but Ruffel and Hamden were much attached to the ancient constitution, and intended only the exclusion of the duke, and the redress of grievances. It was soon



Aug. 1689. perceived by Russell and Hamden, that the designs of the rest of the conspirators were not the same as their own: an explanation was accordingly demanded, in regard to the principle of the declaration which was to be published when the insurrection was to take place; and in order to satisfy the scruples of Russell and Hamden, it was agreed to declare, that the arms of the conspirators were only defensive, and not to be used against their sovereign, but to be kept in their hands until a free Parliament should be called, which, in a constitutional way, and according to ancient precedent, might redress public grievances, and settle the succession.

Rye-house  
plot.

DURING the dangerous delays which the adjusting these matters necessarily occasioned, an inferior order of conspirators, who had been engaged in all Shaftesbury's projects, held frequent meetings, and who, together with the insurrection, carried on schemes quite unknown to Monmouth and his associates. The men who composed this Cabal, were colonel Rumsey, an old republican officer, who had distinguished himself in Portugal, and had been particularly recommended to the king by Marechal Schomberg; lieutenant-colonel Walcot, who was also a republican officer; Goodenough, who had served in the office of under-sheriff of London; West, Tyley, Norton, Ayloffe, lawyers; Ferguson, the independent clergyman; and Rouse, Hone, Keyling, Holloway, Bourne, Lee, and Rumbold, who were all of them either merchants or tradesmen. When these conspirators met together, they indulged their spleen with all those refinements in justice which naturally occur to men whose passions are highly heated at atrocious acts of wickedness and corruption. An assassination of the king and the duke was familiarly talked of. Some said that Moor, who had laid the foundation of the king's tyranny in the city, should be killed, and his skin

skin be stuffed, and hung up in Guild-hall : others, that the like fate Ann. 1683. should attend the king's reputed pensioners in Parliament, and the trophies to be preserved in the Parliament-house, as a warning to all betrayers of their trust ; others, that the corrupt judges should be served in the same manner, and their skins stuffed and hung up in Westminster-hall ; and others again, that the lord-keeper should be hung up on the same post on which the unfortunate College had suffered. Though many things were said on the practicability of taking off the royal brothers, no concerted design was laid, and the whole of this black and hellish conspiracy, as it was termed by the court and its creatures, consisted in nothing more than in certain loose and desperate discourses, which, as they serve to give vent to inflamed passions, are perfectly innocent as to consequences, and only dangerous to those imprudent persons who lay no proper restraint on the licence of the tongue.

ON the very day that the court of King's Bench gave judgement against the city of London on the Quo Warranto, Keyling, Keyling's discovery. the salter, who had been the instrument of the party to arrest the lord-mayor and sheriffs, being apprehensive of a prosecution for this offensive conduct, and concluding that in the present circumstances of things he should find it more for his interest to be an informer than a patriot, carried to secretary Jenkyns intelligence of an assassination plot, the particulars of which were, that at a meeting, by appointment, with Goodenough, Rumbold the maltster, Hone the joiner, and West the lawyer, first at the Mitre tavern without Aldgate, and afterwards at the Dolphin behind the Exchange, it was agreed, that the party should, on the Saturday before his majesty's return from Newmarket, go down to a place called the Rye, near Hoddesden, in Hertfordshire, the residence of Rumbold, and there effect the



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design of taking off the king and the duke: that the undertakers were to hide themselves behind a wall, or pale, and when his majesty's coach came opposite to them, three or four were to shoot with blunderbusses at the postilion and horses; and if the latter did not drop, two more of the party, drest like labourers, were to rush out of a lane, near the place, with an empty cart, athwart the way, in order to stop the horses; whilst several others were to fire at the king and his guards: that about a fortnight before the informant made this discovery, he had received a paper from Goodenough, containing the names of certain streets and alleys, in which, with the assistance of nine or ten others, he was to make an enquiry what number of house-keepers, journeymen, and apprentices, could be raised upon an occasion, either to justify the assassination, if it should take place, or if not, to co-operate in case of an insurrection: that Goodenough declared he had divided the city and suburbs into twenty parts, and shewed the informant the names of the said divisions in writing: that in another conversation with Goodenough, Wade, Nelthorp, West, Walcot, and colonel Rumsey, at the Salutation tavern in Lombard-street, West and Goodenough asserted, that they had made provision of arms; and that West told the informant on Easter, that since the design to be executed on the king's return from Newmarket had failed, it was intended to take off the two brothers between Windsor and Hampton-court. As the informant gave no reason why West did not take care to provide any of the arms which he had promised for the work of assassination; nor why, whilst an enterprize of such importance was in agitation, Rumbold, who was so deeply concerned, should go down to his house without any of his associates; this glaring absurdity, with the improbability that men who were versed in the laws should talk palpable treason in so incautious a manner, occasioned many doubts to arise in the mind of the secretary, whom a variety of sham conspiracies, which had hitherto brought

brought disgrace on the government, had rendered wary and incredulous, and he objected to the issuing out warrants for the seizure of such a number of persons on the credit of a single evidence. Keyling undertook to remove this objection, and, in order to fortify his evidence, he engaged his brother in treasonable discourses with Goodenough; but the brother being a man of more natural probity than the salter, soon repented of the base part he had acted, and gave intelligence to the conspirators of the joint depositions which had been made against them. Several of these unfortunate persons fled the kingdom, and the rest concealed themselves. One person alone, of the name of Barber, a poor instrument-maker in Wapping, was seized; but whilst the council were puzzled and confounded with the contradiction in several parts of Barber's deposition to that which had been advanced by Keyling, they were relieved from their perplexity by the treachery of two men, from whose education and condition a more honourable conduct might have been expected. West the lawyer and colonel Rumsey, apprehensive of the perils to which they would be exposed in endeavouring their escape, resolved to save their own lives at the expence of their companions, and surrendered themselves with the intention of becoming evidence. West could do little more than confirm the testimony of Keyling with regard to the assassination plot; but in order to render it more palatable to the taste of the government, he pretended, although there was neither men, horses, or arms, provided for the occasion, that the assassination was to have been executed on the very day on which the king was to have returned from Newmarket. A providential fire, which sent him away one week sooner, entirely disconcerted the scheme: a circumstance which gave opportunity to the courtiers to admire the wise dispensations of God, who by an unexpected conflagration, which involved several, perhaps worthy, persons in distress, should preserve a life so eminently worthy a miraculous protection, both

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on



Ann. 1683. on account of his personal virtues and the public interest of the nation. Rumsey, besides an additional confirmation of the same design, gave in the more important information of the meeting at Shepherd's. Shepherd was immediately apprehended, and, agreeable to what might have been expected, made no scruple to secure his personal safety by an act of treachery to his patrons.

As the noble persons who were engaged in the scheme of an insurrection were totally unacquainted with the cabals which had been held in the city, they continued in their houses without making any attempt to abscond. Orders were now issued for arresting Monmouth, Russel, Grey, and Howard. Monmouth eluded the vigilance of his pursuers, though the king had made use of a very unbecoming subtlety to get him in his power\*. Russel, as he had never trusted Rumsey, and had never reflected on the discourse at Shepherd's, did not take any measures to effect an escape: he was accordingly arrested and sent to the Tower; Grey was also arrested, and sent to the Tower; and Howard, whose perturbations on West's having delivered himself, had been visible to the eyes of many, and who had been advised by Hamden to get out of the way, if he was either conscious that any facts could be proved against him, or that he had not sufficient fortitude to bear the worst consequences, was taken in his own house, concealed in a chimney. When he found himself in the hands of the mes-

\* As soon as the council rose from examining Shepherd, the king paid a visit to the dutchess of Monmouth, to whom he affected so much concern for the duke that he wept whilst he spoke to her; and moreover told the lady that some persons were to come and search her lodgings, but he had given orders that no search should be made in her apartments, so she might conceal her husband safely in them. The duke knew his father too well to trust him, so he got out of the way as fast as he could; and the event shewed he had judged right, for the first place which was searched was the dutchess of Monmouth's apartments. *Burnet*, fol. ed. p. 549.

senger,

sanger, he fell a-crying and sobbing, and on the very first Ann. 1689. examination told, as he himself said, all that he knew. Essex, from a delicacy of sentiment which exalts him in the minds of all those who are capable of an equal degree of generosity, refused to abscond, lest the circumstance of his flight should affect the safety of Russel; and with Sidney and Hamden was apprehended on Howard's evidence. Every day some of the conspirators were detected in their places of concealment, and thrown into prison. Major Wildman had been mentioned in West's evidence, as the person to whom he was referred by Ferguson for the payment of money to buy arms; and notwithstanding, according to the evidence of the deponent, he found him out of town at the very time the payment was to have been made, yet the major, who had been an agitator in Cromwell's army, and, from his regard to liberty, had opposed his usurpation, was taken into custody, his house was searched, and in his cellars were found two small unmounted field-pieces which belonged to the duke of Buckingham, and which lay in the duke's house when that was sold. These pieces, which were purchased by Wildman for their workmanship, were seized with great avidity, carried to Whitehall in triumph, and exposed to view as an undeniable proof of a tremendous rebellion, since here were the cannon of the conspirators.

THE discovery of these matters, and the commitments which followed, had no sooner taken air than every corner of the kingdom rang with the abusive exclamation of the Tories. Faction, bigotry, and a spirit of feurrility, at this time seem to have extinguished every spark of generosity as well as justice, in the nation. The misfortunes of the earl of Essex, even under the popular government of Elizabeth, were viewed with regret by his contemporaries; but the public could now behold the most virtuous characters in the nation, for one supposed generous effort to recover all

Exultation  
and triumph  
of the Tories.



Ann. 1683. all which used to be dear to Englishmen, entrapped in the toils of power, with an exultation which can scarcely be believed by any but those who have been witnesses to that height of wicked malice which attends the spirit of faction in this country. The Whigs, who were unmeasurably depressed with the triumph of the adversary, were loaded with the accusation of having seriously intended what was only discoursed of by a few warm and imprudent zealots. A new round of addresses were immediately set on foot. The city of London, which was now in the hands of the crown, led the way, and almost every corporation in the kingdom took their turn to manifest the excess of their depravity, by an unreserved tender of fortune, life, and liberty, and by loading the Whigs with all the reproaches which the most envenomed imagination could suggest. Atheistical persons, factious, tumultuous, rebellious spirits, fanatical Dissenters, infamous miscreants, worst of men, &c. &c. were the flowers which embellished these pieces of oratory. The Middlesex justices, after informing his majesty that his life was worth a hundred million of their's, signified their humble opinion that those dangerous meetings the conventicles, were not to be suffered, nor the persons who frequented them to be trusted, either with employments or arms; and that he ought to permit his wisdom to control his mercy, that justice might take place and bring those most execrable villains and traitors to condign punishment.

model 1  
 Trial and  
 execution of  
 Walcot,  
 Hone, and  
 Rouse.

The king was too gracious to suffer his loving subjects to languish long in expectation of the severities which they so earnestly requested; and lieutenant-colonel Walcot was first brought to his trial. This man was fated to experience that uncertain state of the human mind which often subjects even elevated characters to humiliation and disgrace. Though once noted for bravery, he had been so far overcome with the fond love of life, as to offer, upon the promise of a pardon, to turn evidence; as also

to follow the lords and gentlemen into Holland, and to act the part of a spy upon them, that the court might be induced to admit him either as an evidence, or a spy, or in the capacity of both: he hinted that his intimacy with a Scottish minister, through whose hands much of the business went, might enable him to acquaint his majesty with more particulars than the original discoverer could do; and that the business was laid very broad, or he was misinformed. No sooner had Walcot taken this mean step, than the force of more generous sentiments acquired their usual influence over his mind; and he endeavoured to conceal himself, but having communicated the place of his retirement to Shepherd, who had enlisted into the service of the court as a spy, he was betrayed and carried before the council; but as he did not reveal any thing which could render him useful as an evidence, he was brought to trial: the witnesses against him were West, Rumsey, Keyling, and Bourne, a brewer. West and Rumsey's evidence was totally inconsistent with their former depositions: Keyling's was confined to the prisoner's having been in company with the conspirators one time when a division of the city was discoursed on, but at which he was entirely silent: and Bourne gave a rambling account of his having been at meetings where the raising the city and securing the king, was agitated. The prisoner's defence was manly and spirited: he urged with great propriety, that many of the things which the witnesses had testified concluded very strongly against themselves, but not at all against him; and that to wipe out their own stains, they endeavoured to swear him out of his life. He acknowledged that he had heard of a design carrying on by a great many lords and gentlemen, for asserting their liberties, but then he had been in none of their secrets, and that should he have been as deeply engaged as the prisoners had represented, his crime was only a misprison of treason. As the prisoner had proved, that he lay sick of the gout all the time the king was at Newmarket, a cir-



Ann. 1683. cumstance which shook the most material part of the evidence, it was found necessary, in order to save the credit of the jury, to produce the weak letter which he had written to Mr. secretary Jenkins, with the offers before mentioned; as also another to his landlord Tracey, in which he solicited that West would be tender of him. The crazy testimony of the witnesses being thus supported, the jury made no scruple of bringing in their verdict, guilty; and Walcot suffered with a resolution correspondent to the former conduct of his life. In the speech he made on this awful occasion, he observed with some sharpness, that the witnesses had drawn him into their cabals, under the notion of asserting their liberties and properties, and then made his blood the price of theirs; intimated, that many provocations had brought on the present calamities, and added, that when God had a work to do, he would not want instruments; he prayed that the Almighty would stanch the present issue of blood, and incline the king's heart to mercy, for acts of indulgence would make him easier in his government; he avowed, that the meetings he was in were for asserting the liberties of the nation, but absolutely denied the having been concerned in any conspiracy against the king's life.

Howe and Rouse were next brought on their trial. Howe was a man so void of common understanding, that the very idea of a plot becomes ridiculous, when it is supposed that such a wretch should have any concern in it. Keyling and West were the evidences against him; and the depositions of West and Keyling were so contradictory, that it would have been impossible to have convicted the prisoner upon them, if he had not stupidly acknowledged that he had been retained by Goodenough, as he understood, to kill the king and the duke of York, though he utterly denied that he had ever provided any arms for the occasion, or that he either knew where or when he was to do the business.

business required of him. The witnesses against Rouse were Ann. 1683.  
Thomas Lee, a dyer, and William Leigh, the mate of a man of war, who introduced a story of so ridiculous a nature, that it was calculated rather to create laughter, than to be the subject of an arraignment. A golden ball was to be played for at Blackheath by some sea captains, who were to be let into the secret: when the play was over, every captain was to take his party, and inform them that they had other work to do; after which they were to go with long boats and arms to seize the Tower. The absurdity of this relation, garnished with hear-say evidence, that a thousand horse were ready in the country, and five hundred in the city; that the king was to be killed coming from Windsor; and that arms were to be sent to private houses, which were to be resorted to in the night-time, united to the total want of agreement in the depositions of the two witnesses, must either have saved Rouse, or exposed the jury in too gross a manner at this early period, when the scene of blood was just opened, if Rouse had not foolishly acknowledged, that with the intent to turn informer, he had held these idle discourses with the mate and the dyer, in order to get at the bottom of their practices \*. The king's counsel insisted that the prisoner's confession was sufficient to hang him, and the jury taking the item, pronounced him guilty, without removing from the bar. It was acknowledged by Rouse on the day of execution, that he was acquainted with a design to seize the king, set aside the duke of York, and to advance the duke of Monmouth in his stead; but he was never, he said, in the councils of the party, and had endeavoured to make himself acquainted with particulars, to be the better able to make a true and faithful discovery; that Lee the dyer had charged him with uttering

\* One captain Blague, who had conducted his defence with more wisdom, was acquitted, though accused of the same criminal matters by the same evidence.



Ann. 1683. the very words he had used himself; and that the only discourse he had ever heard on the subject of seizing the Tower, was opened by Lee in the company of captain Blague, who in a jocular way said he would engage to take it with six ships, and two or three hundred men, but without the least purpose to put any such attempt in execution.

Trial and  
condemna-  
tion of lord  
Russel.

AFTER the condemnation of these men, who were previously tried, in order to raise the indignation of the public, by bringing the scheme of assassination immediately before their eyes, and afterwards the more easily to confound, in that indignation, the insurrection with the assassination, lord Russell, eminent above all the nobility for the simplicity of his manners, and the purity of his life, was pitched on to be the next sacrifice. When the illustrious prisoner came into court, he desired a delay of his trial till the next day, because some of his witnesses could not arrive in town before the evening. This reasonable request Pemberton, the lord chief justice, seemed inclined to comply with, but was prevented by Sawyer the attorney-general, who with an injustice and inhumanity which seems almost inseparable from this invidious office, observed, that the prisoner did not intend to have granted the king the delay of one hour to save his life. The next important question related to the jury, who were all of them so thoroughly tinctured with the spirit of party, that no candour in their judgment was to be expected: but as it was not thought expedient to urge this objection, they were challenged by the prisoner on the reason that they were no freeholders, and though the law was express on his side, and the plea was admitted in Fitzharris's case in the king's behalf, yet the objection was now over-ruled by the unanimous voice of the Bench. Such an effrontery wears the face of injustice, when backed by power, and supported by an association in guilt. Rumsey, Shepherd, and the lord Howard, were the evidence produced against the prisoner. Rumsey deposed, that he had  
been

been sent to Shepherd's, with a message from lord Shaftsbury to the duke of Monmouth, lord Russell, &c. to the following purport, that it was high time to come to some resolution about the rising; and that he was answered by Ferguson, and afterwards by lord Grey, that Mr. John Trenchard had written word that he could not be ready without a longer notice, and that Sir William Courteney could not stir, therefore my lord must be contented as to the remainder of the story. Rumsey could not be certain whether the prisoner was at one meeting at Shepherd's, or at two, or whether the deponent then heard the words of a declaration read, or whether he heard it repeated afterwards; and though he had answered to the artful questions put to him by the king's counsel, that he was not in the room above a quarter of an hour, yet he proceeded to depose, that he heard some discourse concerning surveying the guards begun by Armstrong and Ferguson, and carried on by all the company: and being farther asked by the counsel, not whether the prisoner gave his consent to this undertaking, but to the rising, he answered, he did. Shepherd, who, like Rumsey, was more particular in his testimony, than he had been in his information, deposed, that the conveniency of his house had been bespoken by Ferguson; that when the company met, he had been desired to wait upon them in person, that they might not be observed by his servants; that the substance of their discourse was how to surprise the guards; that the duke of Monmouth, lord Grey, and Sir Thomas Armstrong, went one night to the Meuse to view them; and that when the company met next at his house, he heard Sir Thomas Armstrong say they were remis. On being asked, whether the prisoner had attended both meetings, he said, yes, to the best of his remembrance: after asserting that there was no farther discourse, or any writings or papers read, he recollected, on the interrogation of Sir George Jeffries, that one paper had been read by Ferguson, of the nature of a declaration, setting forth the grievances of the people, but he forgot all the par-



Ann. 1683. particulars, and supposed it was read for approbation. Lord Howard, who had declared to the king on his knees, that he had told all, ushered in his evidence against lord Russell with a long rambling confused story, calculated to mislead and prejudice the jury, and which consisted of many embellishments and additions to his first deposition. After a great deal of hear-say evidence, relating to conversations which had passed between himself and lieutenant-colonel Walcot, lord Shaftesbury, the duke of Monmouth, and Sir Thomas Armstrong, he came down to the disappointment and departure of lord Shaftesbury, and the establishment of a council of six, composed of the duke of Monmouth, the lord Essex, the lord Russell, colonel Sidney, Mr. Hamden, and himself; in which it was resolved, that the insurrection should begin in the country; in which the following questions were debated, what counties and towns were the most disposed to action; what arms were necessary to be got, and how to be disposed, and what money it would be necessary to have in a common bank, to answer the exigencies of the undertaking. Nothing was finally resolved on concerning any of these particulars in the first meeting; but in the second, it was determined, that some persons should be sent to the earl of Argyle, to settle an understanding with him; that Aaron Smith should be sent into Scotland, to invite some Scotch gentlemen who understood the state of that country into England; that after this resolution was taken, it was thought prudent to put an end to such dangerous conferences; and the deponent being obliged, before the return of Aaron Smith, to go into Essex and to Bath, he could give no farther account of the progress of the conspiracy. On the attorney-general's asking the evidence, whether the lord Russell sat at the meetings as a cypher, and what he said? he returned answer, that every one knew my lord Russell to be a man of great judgment, and not very lavish of discourse. But did he consent, said Sir George Jeffries? We did, returned the lord Howard, put it to the vote;

it went without contradiction, and I understood that every one present gave their consent. Ann. 1683.

WITHOUT any recapitulation of the evidence, the judicious reader must observe, that besides the legal and rational objection which lay against the depositions of men whose lives were yet at the mercy of the crown, no positive proof was brought against the prisoner, either of the intended insurrection, or of the design of seizing the guards; and that there is an incongruity in the whole story, whether it is considered in part, or in the whole: for the answer to lord Shaftsbury's message, as recited by Rumsley, argues, that all thoughts of a rising were for the present over; and it is manifest, by lord Shaftsbury's departure on this message, that no debate concerning the seizing the guards could have been held; whilst the person who carried him the message was in the room; nor can it be imagined that such a message could be received, such an answer could be given, such a consultation could be held on the surprisal of the guards, and the resolution of reconnoitring them, could have been taken in the short compass of a quarter of an hour; or that military men, as were Monmouth, Grey, and Armstrong, two of whom had held a command in those very guards, should not be apprized of all the particulars which related to them; or that lord Russell should formally give his consent to the rising, at Taunton, at the very instant he had joined in the answer to lord Shaftsbury; by which it appears, that the evidence of Rumsley and Shepherd relates to one matter, and the lord Howard's to another, whose testimony must have been blasted in the opinion of any impartial court, by the evidence of lord Anglesea, Mr. Howard, a relation of the deponent's, and Dr. Burnet the historian, who asserted that lord Howard had declared upon his honour, his faith, and with as much solemnity as if he had been taking an oath before a magistrate, that he knew nothing of a plot, nor believed

that



Ann. 1683. that there was any; that lord Russell was unjustly imprisoned; and that he knew nothing against his lordship or any body else relating to such a design. These objections were many of them overlooked by the prisoner, and others were but slightly touched on; and he contented himself with protesting in general, that he never did design any rebellion against the king. Finch, the solicitor-general, in his farewell harangue, used all the subtlety connected with the profession, to mislead the jury as to the nature of the evidence and the matter of law. Serjeant Jeffries made an insolent declamation, full of fury and indecent invective: but Pemberton, whom the distinguished virtues of the prisoner, and the presence of several persons of high rank, who crowded to give testimony of his many amiable qualities, had struck with a kind of awe, and who was also somewhat abashed with the apparent defect in the evidence, summed up the matter contained in the depositions at first very fairly; but, in conclusion, told the jury, that a design to seize the guards was a design against the king's life; and if they believed the prisoner at the bar to have conspired the death of the king, and in order to that, to have held such consults as the witnesses spoke of, they must find him guilty. It is easy to see that the chief-justice attempted to unite in his conduct an impossibility; that is, to preserve, at the same time, some degree of reputation with the people, and his credit with the court: but the jury, little attentive to consequences, though equally concerned with the prisoner, made no scruple to sacrifice the personal safety of the citizens to the supposed interests of their party, and to resign their consciences into the hands of the court, by accommodating their verdict rather to the subtleties of the lawyers, than the obligation of their oaths. Treby, the recorder, who had long laboured with the prisoner in the same cause, instead of throwing up his office, was mean enough to pronounce sentence of death on his associate, and even to argue against an arrest of judgment.

It

It has been already observed, that the matter of fact had not been brought before the jury by any legal proof; but in regard to matter of law, there remained a difficulty of a yet more important nature. The two chief species of treason contained in the statute of Edward the Third, are the compassing and intending of the king's death, and the actually levying war against him; and by a statute enacted in the reign of Mary, the crime must be proved by the concurring testimony of two witnesses to some overt-act; but the crown lawyers, who affect to consider it as a part of their duty to compass the death of their fellow-citizens by sophistry and chicanery, had introduced a very dangerous latitude, both in the proof and definition of the crime. Instead of adhering to the plain meaning of the statute, that the two witnesses should testify the same precise overt-act, they argued, that it was sufficient that they both testified some overt-act of the same treason; and this subtlety, which, from the united corruptions of the bar and the bench, had on several occasions prevailed in the courts of judicature, was fatally countenanced by Parliament at the trial of lord Stafford.

But as the venom of party had tainted the understandings as well as the morals of the English, the good sense of the nation taught them carefully to provide against bringing any matter of constructive treason, or treason by implication, into the common courts of judicature; and consequently, if a man should enter into a conspiracy for a rebellion, and even fix a correspondence with foreign powers for such a purpose, and should provide arms and ammunition, he could not, on detection, be tried for treason out of Parliament; but the lawyers, confounding, by a sophism, two species of treason which the statute of Edward the Third had accurately distinguished, always laid their indictment for intending the death of the king, and produced the intension of a rebellion as a proof of the other intension. The long



Ann. 1683.

Parliament in Charles the Second's reign, either to render this dangerous refinement unnecessary, or from an anxiety for the safety of their idol monarch, passed a law soon after the Restoration, in which the consulting, or the intending of a rebellion, was, during the life of Charles, declared treason; but it was required, that the prosecution should commence within six months after the crime was committed. This act was a tacit confession, that the other statutes were not competent to such a purpose; yet the lawyers, when it suited the turn of the court, either from the time of prosecution being elapsed, or from other untoward circumstances, still persevered in the old form of indictment; and both Sir Henry Vane, and Oliver Plunket, titular primate of Ireland, had fallen victims to this species of sophism: and such is the diabolical spirit of party, that the public acquiesced cheerfully in the fate of these men. On this encouragement the lawyers proceeded in the same manner against lord Russell; and though the facts, with which he was charged by Rumsey and Shephard, fell plainly within the statute of Charles the Second, yet as they were beyond the six months required by law, and that Howard was a single witness, he was indicted on the old statute of the twenty-fifth of Edward the Third: and the circumstance which rendered the case of this nobleman yet more repugnant to the letter of the statute, is, that guards were a species of innovation totally unknown at the time when the statute was enacted. They had been declared unconstitutional and illegal even by the Parliament the most famous in the English annals for their attention to the prerogatives of the crown; and the laws, as they then stood, Although the innovating rule of proving the same treason in two branches, artificial as it is, loses its force in this instance, because it appeared on the face of the evidence, that the meeting at Shephard's was the last scene of one conspiracy, and the consultations at Hamden's and Russell's were the first scenes of another, and the proof of one, if one was proved, could give no legal support to the other.

.IV. stood,

stood, did not presume that an armed force was more necessary for the preservation of the king's person than for the redress of the subjects' grievances. Ann. 1683.

Lord Russell, knowing how obnoxious he was to the court from the part he had acted on the bill of Exclusion, had given up all thoughts of preserving his life from the first moment of his imprisonment: however, he so far conformed to the earnest solicitations of his friends, as to send a petition to the king, in which he offered to live beyond sea in any place his majesty should name, and never to meddle any more in English affairs; but Charles, with an implacability which would have reflected disgrace on the brightest character, refused all the various applications which were made to him to save the life of Russell: he not only remained inexorable to the earnest intreaties of the old earl of Bedford, accompanied with the offer of one hundred thousand pounds; but what is very extraordinary, considering the king pleaded a high degree of sensibility towards the sex, as an excuse for the excesses of his life, he beheld, without sympathy or remorse, the daughter of his faithful servant, the old earl of Southampton, motionless at his feet. Whilst signing the warrant for execution, he insultingly said, "Lord Russell shall find that I am possessed of that prerogative which, in the case of lord Stafford, he thought fit to deny me." And when told that Rouvigny, who was a relation to the Bedford family, was coming over with intercessions from the court of France in favour of his kinsman, he coldly replied, "I shall be glad to see the ambassador, but lord Russell's head will be off before he arrives." A notion had prevailed amongst the friends of this nobleman, that a pardon might be procured, provided he would acknowledge the doctrine of non-resistance in its fullest extent; and Dr. Tillotson and Dr. Burnet endeavoured, though in vain, to reason the prisoner into such a confession. "I can have no

Indeflexibility  
of the king.





of propriety, and the same elevated sentiment of devotion, had united  
 this illustrious couple in the strongest ties of affection. When  
 the fatal sentence of death was pronounced, lady Russell, who had  
 attended her lord during his trial; and had endeavored to supply  
 the want of counsel, by taking notes, and making observations;  
 shew herself at the king's feet, and pleaded with many tears the  
 merits and loyalty of her father; but finding the king inexorable,  
 and every supplication vain, she collected her courage against the  
 fatal blow, and in the hour of parting, suppressed every emotion  
 which might tend to distress the mind, or weaken the resolution  
 of Russell; who observing the magnanimity which appeared in  
 her conduct during these painful moments of suspense, when  
 hope was not entirely extinguished, said to his friends, "The  
 parting with this woman is the most difficult thing I have to do.  
 She will hardly be able to bear it; the concern about preserving  
 me fills her mind so now, that it in some measure supports her;  
 but when this is over, and I fear the quickness of her spirit will work  
 all within her." These apprehensions, and the sense he had of  
 her magnanimity and tenderness, flung him into some emotions  
 when he spoke of her, and a tear would sometimes fall from his  
 eyes; but when at the last dreadful trial she suppressed her sorrow  
 so completely, as to give him no disturbance at parting, he ex-  
 pected very largely on the blessings he had enjoyed in such an  
 union; and what misery it would have given him, if lady Russell  
 had not had that nobleness of nature joined to her tenderness, as  
 never to have desired him to do a thing for the saving his life.  
 One day when lady Russell was buying linen in vain endeavours to  
 obtain only a few days respite, lord Russell said, He wished that his wife  
 would give over beating every bush, and running about for his preservation,  
 but when he considered that it would be some mitigation of her sorrow, that  
 she had left nothing undone which could give any probable hopes of saving  
 his life, he acquiesced cheerfully with her tender anxiety.



Ann. 1683. What lord Russell had foretold, in regard to lady Russell's sufferings, when the beloved object which had stimulated her to these heroic exertions was no more, was exactly verified: she spent the remainder of her days in retirement and continual weeping for her departed lord; and though she lived to see a great accumulation of wealth in the family, her eldest son created a duke, and all her daughters married to men of the highest rank in the kingdom, yet did not these circumstances of fortune, nor a long period of forty years, abate in the smallest degree the keen sense of her misfortune. A series of her letters to doctor Fitzwilliams, a clergyman, are very affecting descriptions of the contest between a passionate grief and the principle of a pious resignation; and the uninterrupted sorrows of a long life, prove that it was the sense of religion, the duties of a mother, and the promise which she had made lord Russell in the hour of parting, that she would preserve her life for the sake of his children, which alone prevented her from following the example of the Roman Arria in that act of conjugal heroism for which this illustrious woman is so justly celebrated.

Execution of  
lord Russell.

In the mention of indulging the influence of party, and to mortify the Exclusionists with the sight of their beloved leader

The following circumstance in lady Russell's conduct proves, that she was not in any degree inferior in the presence of mind and constancy of temper which so highly distinguished the wife of Peter. Lady Russell's only son, Wriothesly, duke of Bedford, died of the small pox in May 1711; to this affliction succeeded, in November 1711, the loss of her daughter, the duchess of Rutland, who died in child-bed. Lady Russell, after seeing her in her coffin, paid a visit to her other daughter, who was married to the duke of Devonshire: as it was necessary to conceal her grief from the duchess of Devonshire, who was also at this time in child-bed, she assumed a cheerful air, and answered her anxious daughter's enquiries with these words, "I have seen your sister out of bed to-day."

conducted

conducted to execution through the principal streets of London, Ann. 1643.  
 the scaffold was erected in Lincoln's-Inn Fields; a circumstance  
 which, however it might shock the feelings of his friends, had  
 no effect on the prisoner, who whilst he seemed touched with  
 the tenderness of those among the spectators who could not re-  
 frain from tears, expressed no indignation at others who had  
 the barbarity to insult him on his passage: on looking towards  
 Southampton-house, the tear started in his eye, but he instantly  
 wiped it away. He was attended by Dr. Tillotson and Dr.  
 Burnet; the one to assist him in his devotion, and the other to  
 do justice to his memory; and when he arrived at the scaffold,  
 he addressed himself to sheriff Rich, in a few words to the  
 following purpose: That he did not love much speaking, nor  
 expected now to be well heard; he had therefore set down in  
 the paper he then delivered, what he had thought proper to  
 leave behind him; and added, God knows how far I always  
 was from any designs against the king's person, or of altering  
 the government, and I still pray for the preservation of both,  
 and the Protestant religion. In the words of a dying man I  
 profess I know of no plot either against the king's life, or the  
 government; but I have now done with this world, and am  
 going to a better; I forgive all my enemies; I thank God I  
 die in charity with all men, and I wish all sincere Protestants  
 may love one another, and not make way for Popery by their  
 animosities." After the usual time spent in devotion, the pri-  
 soner prepared for execution, embraced his two friends, and  
 with a chearful and serene countenance, laid his head on the  
 block, which was severed from the body by two strokes of the  
 axe; and, to the mortification of the court, the spirit of party  
 was so far subdued by sympathy, that on the exposure of the  
 bleeding head, with the usual proclamation, the scaffold re-  
 sounded with the universal groans and lamentations of the spec-  
 tators.

Thus



1703. <sup>no. 1</sup> Thus by the arms of oppression and the malignant spirit of  
 faction, fell the popular and beloved lord Russell, a man in  
 whom every virtue which can embellish human nature, was so  
 conspicuously eminent; as to render him the object of peculiar  
 aversion to that party whose malignant principles he had so ge-  
 nerously, yet fatally opposed. The very amiable qualities of his  
 mind, with the circumstances of his fortune, connexions, and  
 matrimonial union, are sources of felicity rarely found united in  
 the lot of any one individual; circumstances which, as they highly  
 increase the lustre and the merit of his patriotic exertions, by the  
 importance of the stake which he hazarded for the public welfare,  
 ought to have endeared his memory to all those who affect the smallest  
 regard for the laws and liberties of England: but such is the unabated  
 spirit of party-rancour, that the discovery of the negotiations of the  
 popular leaders with the French court, in a publication which  
 proves, beyond a doubt, the well-founded apprehensions of the  
 party, in regard to the formidable connexion between Charles and  
 the French monarch, have opened afresh those sources of virulent  
 abuse which the faction in these days grounded on the absolute  
 denial, that any such connection ever did exist between Lewis  
 and the family of the Stewarts, whom they pretended were the  
 best guardians of the people's rights: the necessity of the Revo-  
 lution, and the intrigues of this very faction with the prince of  
 Orange, proved a shameful conviction of the folly of the latter  
 assertion; and the papers preserved in the Depot at Versailles as  
 plainly manifest the impudent fallacy of the former. The cla-  
 morous voice of interest will ever be louder than the calm, dis-  
 passionate reasonings of the devotees to truth, and will conse-  
 quently attract vulgar credulity; but whoever can emancipate  
 themselves from the powers of impressions received by fashion-  
 able opinions, and candidly consider the situation of public af-  
 fairs at this period, with the views of the patriots, and that  
 the sole end of the negotiations with the court of France, was

to prevent Lewis from assisting the king of England in the attainment of despotic power in his own dominions, in order to render him a more useful dependant, and more serviceable to his ambitious views, must acknowledge, that it is circumstances and intentions alone which often give the colour of vice or virtue to the same act; and that the conduct of lord Russell in this particular, is so far from requiring any apology, that it deserves encomium both from its intention and its consequences, as it undoubtedly broke the king's measures in a manner which, but for the factious, violent, and impolitic conduct of the high-church party, must have established the domestic affairs of this country on such a footing as to have rendered the dangerous expedient of a revolution totally unnecessary.

In the paper which lord Russell left in the hands of the sheriff, he does not absolutely deny the having been present at some conversations in which a rising was talked of; and he acknowledges the having heard by accident, as in general discourse, the feasibility of seizing the guards, but never heard it mentioned as a thing which could easily be done, or consented to as a thing fit to be done: he absolutely denied the having been at Shepherd's above once, and this with the intention to taste wine; a circumstance which he enlarged the more upon because Sir George Jeffries had insinuated to the jury, that he had been guilty of a falsehood in this particular: he asserted that Rumsey was at Shepherd's before him; though Rumsey had sworn to the contrary, and that he did not hear him deliver any message from lord

Lord Russell, after his sentence, sent Shepherd word that he forgave him all which he had sworn against him; but that he must remember he never was within his door but once. To this Shepherd returned answer, That he was in such confusion during the whole trial, that he scarce knew what he said.



Aaa. 1683.

Shaftesbury: he complained, though with much gentleness and moderation, of the hard and illegal usage he had met with at his trial and condemnation, excused with an equal degree of modesty the having been prevailed on to sign petitions and make an address for his life, to which he had been, he said, ever averse; but he was willing to let his friends see what power they had over him, and that he was not obstinate or sullen, but would do all which an honest man could do for their satisfaction: he was advised, he said, not to confess matter of fact plainly at his trial, since that would have brought him into the guilt of misprision of treason; and being thus restrained from dealing frankly and openly, he chose rather to say little, and leave the whole matter to the consciences of the jury, than to depart from that ingenuity which, by the grace of God, he had carried with him in the former part of his life. He never pretended to any great readiness in speaking, and he wished that those lawyers who had it would make more conscience in the use of it, and not run men down, and by strains and fetches impose on easy and willing juries, to the ruin of innocent persons; for to kill by the forms and subtleties of law, was the worst kind of murder: he wished that the rage of hot men, and the partialities of juries, might be stopt with his blood; that all sincere Protestants would so far consider the danger of Popery as to lay aside their heats, and agree against the common enemy; and that the churchmen would be less severe, and the Dissenters less scrupulous: bitterness and persecution were at all times bad, particularly so at the present crisis. In regard to Popery, he looked on it as an idolatrous and bloody religion, and therefore he thought himself bound, in his station, to do as much as he could against it, by which he had foreseen that he should procure such great enemies to himself, and such powerful ones, that he had been expecting, for some time, the worst accident which could befall him, and he blessed God that he fell by

the axe, and not by the fiery trial. However great, he said, his apprehensions had been of Popery, he never had a thought of doing any thing against it basely or inhumanly, or which did not consist with the laws and liberties of the kingdom. In regard to the share he had in the prosecution of the popish plot, he took God to witness that he had proceeded in it in the sincerity of his heart, being then really convinced, as he at this time was, that a conspiracy against the king, the nation, and the Protestant religion did exist: he professed that he never knew any thing directly or indirectly of any practices with the witnesses, for falsehood and cruelty were never in his nature: he did then believe, and continued in the same opinion, that Popery was breaking in upon the nation, which he was afraid would fall under very great trials, and very sharp sufferings; and he was sorry that so many Protestants gave their helping hand towards it: he thought the nation and the king's life were in equal danger from the expectations of a popish successor, which were the reasons that prevailed on him to act the part he had acted; but he believed the earnestness he had expressed on that subject, had no small influence in his present sufferings: he protested that he never was in any design against the king's life, or the life of any man whatsoever, and ended these reflections, observations, and assertions, with a prayer that the Almighty God would forgive the sins, the transgressions, and the errors of his life, and afford him his gracious support in the last moments.

THE freedom with which lord Russell had expressed his sentiments on the subject of Popery, and his animadversions on the injustice of his sentence, raised as high a persecution against his memory, as had taken place against his life. The pen of every hireling was employed in bitter invective. Sir Roger L'Estrange, with his accustomed flourish, pronounced the composition a reproach in the form of a vindication, the panegyric of a pedant,



instead of the confession of a penitent, the last prayer and agony of a dying Christian, dissolved into a flood of bitterness and calumny against the church and state; and that under the appearance of candour, the paper abounded with reserves and calumnies\*. Burnett, who was accused as the author, and Tillotson, who had the merit of having endeavoured to insinuate into the mind of his dying friend sentiments more consonant to the duties of a subject, and the character of a Christian, was summoned before the king and council, to give information of what they knew, in regard to the speech, whether it was really penned by lord Russell, or who was his adviser in this business; but so little satisfaction was obtained from the examination of these divines, that Burnett took the opportunity of reading a journal of every passage which had happened during lord Russell's confinement. The journal excited such admiration, that the duke expressed great indignation, and the lord-deputy reprehended Burnett for his impertinence, and asked him if he intended to print it. Tillotson, though he was highly complimented on a letter written with much more zeal than judgment on the subject of passive obedience, which had been sent to the prisoner the day before his execution, and which had been surreptitiously obtained and published, insisted, that himself was now of lord Russell's opinion, and that circumstances might happen which it would be lawful to resist. On this the duke of York, forgetting those sentiments which he had entertained on the supposition that the

\* It is remarkable, that the partizans of the court, in their reply to lord Russell, entirely shifted the ground they had first taken; for whereas, upon his trial, they chose to put the issue on the joint evidence of Rumley and Shepherd, with respect to the discourse concerning the seizing the guards, and to shew, from thence, that the indictment was fully proved, they, upon the latter occasion, dwelt on the rising chiefly, which was supported only on the testimony of lord Howard, and therefore, according to their own confession, lord Russell was condemned on the credit of one witness.

king would join with the Exclusionists, urged him, with some warmth, to name the case; but the king put an end to any farther explanation, by forbidding his brother to press the dean any farther.\*

Apr. 1682.

On the day that lord Russell was brought to his trial, the king and the duke, from a curiosity unworthy of their rank, or even the characters of gentlemen, repaired to the Tower, in order to see him pass. As they were going back to their barge, the cry followed that lord Essex had killed himself, and this intelligence found an immediate passage to the Old Bailey, where the king's council made a very unwarrantable use of it to confirm the plot, and to render lord Russell more apparently guilty: a circumstance which undoubtedly gave the stronger credit to another report which immediately prevailed, that the earl had not been his own murderer, but that he had been very opportunely disposed of by the hands of others. To counteract this report, and the inferences drawn from it, very much to the disreputation of the royal brothers, the court found it necessary to publish the depositions of Bomeny, the earl's servant, of the warder Russel, of two surgeons who examined the body, with the coroner's verdict. Bomeny's deposition, and the warder Russel's contained the following particulars, that the earl, on July the eleventh, had asked for a penknife to pare his nails; that the earl's footman was sent with a note to the earl's steward for an instrument of this kind, which his lord had commonly used, and kept for this purpose; that the steward having neglected to send the penknife by the return of the footman, he was again dispatched on the same errand; that during his absence lord Essex had asked for a razor, which was

Death of the earl of Essex.

\* According to a narrative which Echard says he obtained from a great man, who had it from the dean's own mouth, the king more mildly said, Brother, the dean speaks like an honest man, press him no farther.

accord-



Aug. 1683.

Death of the  
Earl of Essex.

accordingly given him, that on Friday the thirteenth instant, about eight or nine in the forenoon, the deponent Bomeny went up to the earl's chamber, to carry a note from the steward, and finding the chamber-door locked, and no answer returned to his knocking, he took up the hanging, and looking through the chink, saw blood, and a part of the razor; whereupon he called the warder Ruffel, and went down for more help, and the said Ruffel pushed the door open, which exposed to the two deponents the body of lord Essex, extended on the floor, without a perriwig, and swimming in blood, with the razor by him. Two surgeons deposed farther, that the aspera arteria, or windpipe, gullet, and jugular arteries, were all divided even to the vertebrae of the neck; and then followed the coroner's verdict, pronouncing the earl *felo de se*.

THESE are all the depositions which were published in favour of the court, on which it is to be observed, that contrary to common prudence, when the violent death of so eminent a person, at so extraordinary a crisis, was to be enquired into, the body was not left exactly as it was found, nor the razor as it had dropt from the dying grasp of the prisoner; that the coroner and his jury were not immediately directed to sit upon the body; that Bomeny and Ruffel omitted one material allegation in their depositions, which they both afterwards recollected, and swore to almost in the same words; and that Samuel Peck, the footman, who had been sent to the steward for the penknife, and was returned, Munday, the warder, Lloyd, a centinel, who was upon duty, and Mary Johnson, a servant in Hawley's house, who together with one Webster, the bailiff of the Tower Liberties, helped to strip and wash the body, had not been, according to custom, previously examined before the verdict given by the jury, who were not permitted to examine, or even see the clothes. The earl's footman also asserted, that the print of a bloody foot was visible

on his stockings: Mary Johnson, that his cravat, which was three times round his neck, was cut through every fold; and the jury were scarce met, before a message was sent them to make haste in their inquisition, because one waited to carry it to the king, who had declared that he would not rise from the council-board till he had notice of the issue. Ann. 1692.

A ZEAL for the discovery of concealed truths is commonly fatal to the repose of the busy enquirer. One Braddon on the information that Edwards, a boy of fourteen years old, had seen a bloody razor flung out of the earl of Essex's window, officiously went in quest of the child, and being informed by the mother and sister of the boy, that he had told the same tale as soon as he came home, the very morning of the earl's death, took down notes of the several depositions, and carried them first to a magistrate, and then to lord Sunderland, as secretary of state, when, after a formal summons to attend the council together with the boy, he was immediately deprived of his liberty before any examination had taken place, and was obliged to give two thousand pounds bail for his good behaviour. This rough usage did not answer the intended purpose of deterring Braddon from pursuing his enquiries. A girl was now found out whose age was similar to that of the boy, who told the same story; and Braddon after he had taken her deposition, on the being informed that it had been discoursed above one hundred miles from London, that the earl had cut his throat in the Tower the very day this melancholy incident happened, set out in quest of the proof, but was overtaken at Fisherton, in Wiltshire, carried before a justice of peace, and committed to the county gaol, as a dangerous person, and ill-affected to the government. On his removal to London by habeas corpus, and his applying to the lord-keeper for his redemption, he was again brought before a committee of the council, consisting of the lord-keeper, the



Ann. 1683. the lord-privy seal, the duke of Ormond, and secretary Jenkins, and, after many bitter reproaches, required to give twelve thousand pounds security for his appearance and good behaviour. As Braddon was not in circumstances to comply with this demand, he was committed to the custody of a messenger; and to save the enormous expence of this species of confinement, petitioned to be removed into the King's-Bench. The petition was at length complied with, and Braddon remained in close confinement during the whole vacation, after ten thousand pounds security had been given for the liberty of the rules, and in the Hillary term following, he was tried for a misdemeanour, at the King's-Bench bar, together with one Speke, in maliciously conspiring to make his majesty's subjects believe, that the coroner's inquest, in the case of the earl of Essex, was unduly taken; and that the said earl did not murder himself, but was murdered by those who had him in custody, and in procuring false witnesses to attest the same, to the great scandal of the government.

THE conduct of the courts of justice, during almost the whole course of this reign, had not been sufficiently candid to afford Braddon any hopes of success in a contest of this nature. An attempt was first made to raise a belief, that Edwards, a custom-house officer, whose bread depended on the court, had forged the story, which his son had told: young Edwards, however, though in a manner directed by the lord-chief-justice to give his father the lie, had the candour to acknowledge, that he had told such a story to his father before he had seen Braddon, and again to Braddon afterwards; and that he never had denied the truth of the story to Braddon. The son of the famous Dr. Hawkins, who had taken Fitzharris's confession, was now brought forwards, and swore, that he and young Edwards, after the news had gone forth of the earl of Essex's death, had stood for an hour or two at least, looking up to the window where he

was

was imprisoned, and that during that time no razor was thrown out; that they went away together out of the Tower gate, and that young Edwards mentioned no such thing to him. Young Edwards was also asked, if he ever told any person he had been at the lord Brandon Gerrard's lodgings in the Tower; and answering, never in his life, the information taken by Braddon was read, in which it was said, that as he, Edwards, was standing between the lodgings of the lord Brandon Gerrard and the earl of Essex, he saw a hand cast out a bloody razor; that as he was going to take it up, a maid ran out of captain Hawley's, who prevented him.

Thus stood the case on the side of the government: on the other hand, Braddon proved by the corresponding evidence of the boy's father, mother, sister, and one Mrs. Burt, that the boy had often repeated and averred the story of the razor; and as to the boy's denial when examined by the king, he endeavoured to account for it by asking the sister why he had ran to his mother crying, He should be hanged. The sister, on the interrogation of Braddon's counsel, confessed, that the boy had been told that he would be the occasion of his father's losing his place; but when the same counsel would have farther asked, whether she had not told her brother that the king would hang his father if he did not deny what he had so often affirmed, the lord chief justice interposed, and threatened the counsel with the correction of the court, for starting a question so dishonourable to his majesty and the government. Jane Lodeman was now brought forward, and with firmness deposed, that she saw a razor thrown out of a window, which the people told her was the earl of Essex's lodgings; that she heard shrieks and groans; that the razor fell within the pale; that she saw a woman in a white hood come out, but whether she took up the razor or not, she could not tell. These several circum-



Anna. 1683. stances the girl had recounted, at ten o'clock the same morning the fact was committed to her aunt and others: but as she happened to say, as one Glassbrook testified, that she was sure the earl of Essex had cut his throat, for she had seen him throw the razor out of the window; the court took advantage of this simplicity, so natural to a child of these years, and which demonstrated that she had not been practised on by the subtlety of others, to set aside the positive evidence which she had given. To prove that Braddon's journey into Wiltshire was not to make or suborn evidence, but trace it where it lay, one Mrs. Meux was produced at the trial, and offered to depose, that being in a coach with her daughter in Berkshire, on the day before lord Essex's death, her said daughter then told her, she had heard a report that one of the lords committed for the late plot, had cut his throat in the Tower: but the chief-justice would not permit her to be examined, on the maxim, that hearsay was no evidence. It was, however, pertinently urged by the counsel for the defendant, that in this case it certainly was, since it proved that there had been such a rumour. One Fielder, a shopkeeper, from Andover, swore positively that the earl of Essex's suicide was so commonly discoursed of in that place from Wednesday night the 11th to Friday noon the 13th, that he depended on seeing it confirmed by the post of that day, which only bringing a confirmation of the commitment, he could not help wondering how such a report came to be raised, and much more afterwards, when he found it was the forerunner of the truth. One Lewis, of Marlborough, also deposed, that being on the road within three or four miles of Andover, on the said Friday, he fell in with a person who told him the said earl had cut his throat; and one Burges, that he had heard the like news at Frome the same day.

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It must be acknowledged, that these depositions were sufficient to justify Braddon in his endeavours to bring the truth in a matter of such importance to light, and more especially as he had offered to put all his vouchers into the hands of the government, and of course to leave the prosecution to themselves; yet the lord-chief-justice thought fit to treat the whole matter as a contrivance to deceive the king's subjects, and to set them together by the ears, and with an eloquence peculiar to himself discharged on the witnesses a flood of rancour and bitterness. The Attorney-general then undertook to shew that it was impossible for any man, unless the most malicious and villanously inclined against the peace and government of the kingdom, to spread such a report; in order to which he proceeded to call in his cloud of witnesses, which consisted of Bomeny, the valet; Russel, the warder; Lloyd, the centinel; and captain Hawley, at whose house the earl was confined. Lloyd the centinel swore point blank even in contradiction to Bomeny's evidence, that the footman returned within the half hour previous to the earl's death; that he saw the earl at his window when lord Russell went by to his trial; that about half an hour after a cry was made that the prisoner had killed himself; that there was no razor flung out of the window; that no maid came out of the house; that no soldier was at the door but himself; and that no body went into the house that morning whilst he stood centinel. Captain Hawley deposed, that he, standing at the Tower-gate that morning, received intelligence of the earl's death by a warder, whose name he did not specify; that thereupon he went up stairs to a closet where the body lay; that not being able to open the door, he looked in and saw the razor bloody, and lord Essex lying on his arm; and that a constable was called to examine the servants. It is to be observed, that the evidence of this constable, who was never examined by the coroner or his jury; whose depositions were never published with those of Bomeny and Russel; who, in case there



Apr. 1683. had been any foul play, must have been principals or accessories in it, would on these reasons have been a very proper addition to Mr. Attorney's cloud of evidence: but however satisfactory such a circumstance might have appeared to the public, it was totally unnecessary to the success of the point in view. The jury shewed their entire devotion to the crown, by disregarding all which had been said in proof that Braddon had used no ill arts to persuade the witnesses to testify what was false, and that he had proceeded with all imaginable caution and candour, and both the defendants were brought in guilty. Speke, who had committed no other offence than the giving Braddon a letter of recommendation to one of his friends in Wiltshire, was fined one thousand pounds, Braddon two thousand, and both were condemned to remain in prison till they had made payment, and to find security for their good behaviour during life.

In the famous case of Sir Thomas Overbury, who was murdered in the Tower in the reign of James the First, and on whom the coroner pronounced that he died a natural death, it was held no dishonour to the government to make a more thorough disquisition, in consequence of which the murder was discovered, and all the parties concerned in it were brought within the reach of justice. On the presumption of innocence, it must be owned that it is difficult to account for the very opposite measures which were at this time pursued; measures which however they might tend to screen the guilty from punishment at the expence of the innocent, was not calculated to put a stop to the freedom of enquiry, or to prevent the subject from being disputed on more equal terms by the medium of the press.

In the observations of the advocates for the government, we find it asserted, that the earl of Essex had often taken occasion to declare the opinion that self-murder was a lawful act. Some

of these ingenious writers suppose that the sight of that room Ann. 1683. in which the lord Capel, father to the earl of Essex was confined, and in which the earl had received solemn instructions in the last farewell of his parent to preserve an unshaken loyalty, had raised such a conflict of guilt in the prisoner, as threw him into an unconquerable fit of despair. They also suppose, that the sight of lord Russell passing by, under his window, to trial, and who, at the earl's instance, had given way to the admission of lord Howard into their councils, had raised in him those agonizing reflections which brought on the act of violence. To these surmises, it is related, that as soon as lady Essex heard the report of her lord's having been murdered, she sent letters to the earl of Clarendon, who had married the earl of Essex's sister; to Sir Henry Capel, the earl's own brother; to Dr. Needham, and to another gentleman, and empowered them to make full enquiries into the matter: that these persons sent for the coroner and several of the jury, examined the apartments in the Tower, and after duly considering all circumstances, were fully satisfied that the fatal stroke could be given by nobody but himself. Mr. North also proceeds to assert, that the circumstance of the earl's falling against the door of the closet, and a view of the closet on the inside so far satisfied the committee appointed after the Revolution, purposely to scrutinize into all the particulars of the fact, that they gave over their enquiries.

To the first of these observations, in favour of the *felo de se*, it must be acknowledged that there lies two weighty objections; first, that if the memory of the lord Capel's dying charge had so violent an effect on his spirits as is represented, it is reasonable to think that the moment of his entrance into that fatal chamber, would have been the moment of despair, and the knife and the razor would have been that instant called for; but, on the contrary, we find the prisoner saying, the day after, to the earl of Clarendon, with



Ann 1683. with some composure of mind, "Brother, you may imagine I am acquainted with these lodgings, for I lay here eighteen months with my father whilst he was a prisoner;" and Bomeny testified, at Braddon's trial, that they had no reason from the earl's deportment to suspect any thing more than ordinary. Secondly, If the consideration of lord Russell's case had so fatal an effect on his spirits, it is a matter of some astonishment that he should not have waited the event of the trial before the committing an act, which must necessarily furnish an additional argument for the lawyers in their pleadings against the innocence of his friend \*; and the author of the pamphlet called, the Enquiry and Detection, affirms, that, upon application to lady Essex concerning the truth of the report, that the earl had occasionally declared himself in favour of suicide, she had, with all the solemnity requisite in a matter of that importance, denied it, saying, "On the contrary, that he used to speak against it with an emotion beyond what was customary to him;" that the day before his death he had ordered a large quantity of plate to be brought up for his use in the Tower, and also the best sort of wines for his drinking. After these remarks the author of the fore-mentioned pamphlet proceeds to assert, that the gate at the end of those apartments where the earl was lodged was, contrary to custom, and by especial command, kept close shut the morning of his death; that the centinels were not relieved for above five hours, and the next morning charged by a certain military officer, on pain of incurring the severest penalties, not to divulge any one tittle of any thing which had been transacted in the Tower the day before; a circumstance related by several of the said centinels to their friends, and in particular by one Robert Meak, who was afterwards murdered and thrown into the Tower ditch; that one

\* Especially as his caution on this point had gone so far as to prevent him from using the means of securing his person by flight.

Hawley, a warder, for some liberties of speech was likewise dispatched; that the razor which Bomeny swore was the same where-  
with the earl had killed himself, was a small French razor, of about four inches and a half long at most, without any spill or tongue at the end of the blade to keep it steady, and could not be employed to such an use unless the hand and fingers were grasped full two inches on the blade; that consequently it was utterly unimaginable, how, with the other two inches and a half, a man should inflict on himself, with one stroke, a gash or wound of four inches in depth, and eight in length; that the very razor itself confirmed the evidence of the boy and girl in relation to its being thrown out of the window, for at the point there was one gap so large that it would almost admit the end of a man's little finger; from whence, for somewhat more than two inches it retained its edge, and the remainder to the handle was so remarkably notched, that some of the coroner's jury called upon the surgeons to account for it, which one of them undertook to do by ascribing it to the tremification which was in the hand by that time it came to the neck bone; that old Edwards lost his place after thirty-nine years of service, for having appeared in Brad-don's behalf; and that Bomeny, who was immediately dismissed out of lady Essex's family, was admitted into one of the troops of horse guards.

In answer to what Mr. North advances with respect to the lords committee, it is to be observed, that an examination of the coroner and his jury only, would not answer the end of a stricter enquiry, for it was not to be supposed that they would suffer any thing to escape to falsify their own verdict; that Brad-don also, in a pamphlet called Murder will out, asserts, that this committee sat, for the most part, twice a week, from the beginning of February 1688, to the middle of May; that on the



Anp. 1683.

23<sup>d</sup> of this month many depositions and examinations taken by the said committee, were read to the house; that after some interruption from the absence of several of the lords who composed the committee, it was again revived in the October following; but before they had digested the great variety of matter into a method proper to make a report to the House, a prorogation took place, and put a final stop to all proceedings. Braddon, after thus insinuating that the lords committee, either could not or would not countenance his enquiries, published other papers, recapitulating all which he had published before, and insisted that fresh proofs had actually arisen to that very committee; that a female servant to one Holmes, had twice overheard the murder of lord Essex discoursed on by her master and others, before it was committed; that the said Holmes some time after abusing his wife, she called him a murderous rogue, and said she could hang him when she pleased; that Lloyd, the centinel, having been seized and brought before the lords committee, confessed in direct contradiction to what he had sworn at Bradon's trial, that he had, the morning of the earl's death, suffered three men, of whom Webster, the Tower bailiff, was one, to go into the said earl's lodgings, by the directions of either Munday the warder, or major Hawley; that the said Webster, who was before miserably poor, after this so overflowed with money, that in the course of one year, it was computed he lost at play no less than four hundred pounds; and that his wife also, in a quarrel between them, took occasion to tell him, he was a fool as well as a rogue, to treat her so, considering he knew it was in her power to hang him, and another person who belonged to the Tower; and that a gentleman who had first been dispatched by the king to take examinations at the Tower, received repeated orders to desist, and to give notice of the fact to the court then sitting at the Old Bailey.

To

To this long string of singular remarks and assertions, it is Ann. 1681. to be observed, that of the persons to whom lady Essex had recommended a strict enquiry into this dark and perplexed business, one of them, viz. the earl of Clarendon, was too much attached by prejudice and interest to the court, to give any probable hopes of his acquitting himself with all the industry and activity which the importance of the case demanded; but it is also to be acknowledged on the side of the court, that Burnet, who is no ways inclined to give a partial colouring to any of the transactions of this government, allows that the earl of Essex, with whom he had lived on a footing of intimacy, avowed the opinion that a man was master of his own life; that he seemed to approve the earl of Northumberland's self-murder; that he used to have very black fits of the spleen; that he had been taken with one of these at the first period of his confinement; that lady Essex had sent to him, Burnet, all the circumstances on which the belief of her lord's having been murdered was founded; that when he had perused these, he did not think there was any colour to commence a prosecution on; which, adds this author, the lady would have done with all possible zeal if she had found any appearances of truth in the matter. Having thus laid all that is material on both sides fairly before the reader, the only remarks we shall venture to make on a subject of this delicate nature are, that if what has been produced by Braddon and others is not sufficient evidence to accuse government with the guilt of so horrid a murder, it was undoubtedly sufficient to justify suspicions, and to set on foot enquiries; and that the indelicate curiosity of the king and his brother, with the base use made of the melancholy incident of the earl of Essex's death by the king's counsel, at lord Russell's trial, with the oppressive treatment of Braddon, the unfair dealings of the court of King's-Bench, in their behaviour to the witnesses and the counsel for the defendants, with the unjust condemnation and sentence passed



Ann. 1683. on Braddon and Speke, gave very just grounds for the clamour first raised on the occasion, and which has since pursued the memory of the royal brothers; and more especially as the king, with a very mean and even ridiculous hypocrisy, after denying such a favour to the heiress of the earl of Southampton, in the person of her husband lord Russell, solemnly declared in print, that there was no man in his dominions more deeply afflicted with the deplorable end of the earl of Essex than himself; his majesty having been thereby deprived of an extraordinary opportunity to exercise his royal clemency, and to testify to all his loyal subjects and old friends, how highly he valued the memory and sufferings of lord Capel. On these gracious and princely sentiments of the king, it is farther to be observed, that lord Howard was the only witness which the court had to produce against lord Essex; and, consequently, as this unfortunate nobleman was not within the reach of justice, he did not stand in need of mercy.

Hypocrisy of  
the king.

ALGERNON SIDNEY, second son to the earl of Leicester, had entered deeply into the war against the late king, and, on account of the well known firmness of his principles to the republican cause, he was nominated one of the judges in that high court of justice, by whom that unfortunate monarch was tried and condemned: from a delicacy of sentiment, similar to that which had in this case directed the conduct of Sir Henry Vane, Sidney did not take his seat among the judges: he continued, however, zealously attached to the government, whilst it preserved the form and spirit of a republic; and on the same motives which influenced his conduct during the civil war, he was one of the fiercest opponents to the usurpation of the Cromwells. On the resignation of Richard, and the restoration of the Long-parliament, he was appointed one of the council of state; and on June 5, 1659, was nominated one of the commissioners which the Parlia-

ment sent to the Sound, to mediate a peace between the kings of Denmark and Sweden; and Sidney suspecting Montague's fidelity, wrote to the council of state, to complain of the resolution this admiral had taken to return to England with the fleet, which had been appointed to attend on the commissioners. All things from this period, were evidently tending to the restoration of monarchy in the person of the exiled prince; but as no positive recall was sent from England, the commissioners persisted in their mediation till the peace was concluded. At this crisis of affairs, when every man, according to the sense he entertained of his merit or demerit with the new government, was suing either for favour or grace, Sidney, in whom all the dignity of the Roman character, and all the literature of the Greeks were happily united, in opposition to the earnest intreaties of his friends and family, whose conduct was directed by the influence of more flexible principles, chose to remain in banishment, rather than to submit a government which owed its establishment to the blackest species of treachery, and which, from its first onset, threatened the destruction of religion, morals, and civil liberty. "I think, writes this illustrious Englishman, that being exiled from my country is a great evil, and would redeem myself from it with the loss of much blood: but when that country of mine, which used to be esteemed a Paradise, is likely to be made a stage of injury; the liberty which we hoped to establish suppressed; luxury and lewdness set up in its height; instead of the piety, virtue, sobriety, and modesty which we hoped God, by our hands, would have introduced; the best of our nation made a prey to the worst; the parliament, court, and army corrupted, the people enslaved; all things vendible; no man safe, but by such evil and infamous means as flattery and bribery: what joy can I have in my own country in this condition? is it a pleasure to see that all I love in the world is sold and destroyed? shall I renounce all my old principles, learn the vile court arts, and



Ann. 1683.

make my peace by bribery? shall the corruption and vice of others be my safety? Ah! no, better is a life among strangers, than in my own country on such conditions. Let them please themselves with making the king glorious, who think a whole people may justly be sacrificed for the interest and pleasure of one man, and a few of his followers; let them rejoice in their subtlety, who, by betraying the former powers, have gained the favour of this, and not only preserved, but advanced themselves by these dangerous changes: nevertheless, perhaps, they may find the king's glory is their shame; his plenty, the people's misery; and that the gaining an office, or a little money, is a poor reward for destroying a nation; which, if it were preserved in liberty and virtue, would truly be the most glorious in the world; and that others may find they have, with much pains, purchased their own shame and misery, a dear price paid for that which is not worth keeping, nor the life that is accompanied with it. The honour of English Parliaments hath ever been in making the nation glorious and happy; not in selling the interests of it to gratify the lusts of one man. Miserable nation, that from so great a height of glory is fallen into the most despicable condition in the world, of having all its good depending on the breath of the vilest persons in it; cheated and sold by those they trusted; infamous traffic, equal in guilt almost to that of Judas. In all preceding ages, Parliaments have been the palace of our liberties, the sure defenders of the oppressed; they who formerly could bridle kings, and keep the balance equal between them and the people, are now become instruments of all our oppressions.

SIDNEY, disdaining to take any such advantage of his refusal to sit in judgment on the king, as might tend to mislead mankind in regard to his real sentiments on the conduct of the late government, wrote in a book of mottoes in the king of Denmark's library, the following lines:

*Manus.*

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*Manus hæc inimica tyrannis  
Ense petit placidam sub libertate quietem.*

And to manifest yet farther an independence of mind, uninfluenced by circumstances, when at a public dinner in Copenhagen, one of the guests addressing himself to Sidney, said, "I think you were none of the late king's judges, or guilty of his death," Sidney returned the following answer, "Guilty! do you call that guilt? why it was the justest and the bravest action ever done in England, or any where else." However opposite may be the opinion of the candid reader to these sentiments of Sidney, he must acknowledge the exalted heroism of that mind, which scorning to insult over a fallen enemy, chose the hour of personal danger to avow opinions which were suppressed at a time when they were certain to be attended with security and emolument. These were not all the public testimonies given by Sidney of his inflexible attachment to that cause in which he had, from principle and inclination, warmly engaged. After residing some time in Italy, he returned nearer England, that he might not, as Ludlow observed, be wanting to his duty and the public service. In his way to the Low Countries, he visited that general and his friends in their retirement in Switzerland; where, after remaining three weeks, and assuring him of his affection and friendship, and that he no ways declined the owning them, and the cause for which they suffered, he repaired to Brussels, and from thence to Holland, and from thence to France. The intrepidity of Sidney's conduct, his avowed attachment to the Republican cause, his active and indefatigable spirit, united to his great abilities, his judgement, and understanding, rendered him very formidable to the court of England. It is related in the Memoirs of his Life, that ten persons were sent by king Charles to Augsburgh, in Germany, to assassinate him, but were prevented by the removal of Sidney to Holland: and this scheme not taking effect,



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Dalrymple's  
Appendix.

effect, on the information given by the French court, in the year 1670, of Sidney's being in Paris, it was proposed by lord Arlington, that a pension should be given him by the French king, a piece of policy which, in all probability, originated in Lewis, and was acquiesced in by the English ministers, on the terms that Sidney should be restrained from coming into England. "I do not care, says Charles to Colbert, the French ambassador, whether he lives in Paris, Languedoc, or any other place, provided he does not return to England, where his pernicious sentiments, supported by such great parts and courage, may do me much hurt: but let him return to Languedoc if he pleases, for he cannot be too far from England, "C'est un homme de cœur et d'esprit." Sidney continued abroad till the year 1677, when, on the motive of filial piety he returned to England, to visit his dying father, and we are informed by bishop Spratt, that he obtained a particular pardon, upon repeated promises of constant quiet and obedience for the future. This condescension is, however, so little of a piece with the whole tenor of this great man's life, and appears so very unnecessary, as the act of indemnity had effectually secured his person, that we cannot help considering it with an equal degree of disregard and contempt, as many other parts of that bombast romance, which goes under the title of *The History of the Rye-house Plot*; and in particular as we do not find the gallant Sidney reproached with a circumstance of this nature at his trial by the lawyers, who spared no pains to give a false colouring to this unjustifiable prosecution, but, on the contrary, they acknowledge the integrity of the prisoner's conduct, and give it as a reason for the necessity of cutting him off. Sidney, having been detained in England by a vexatious law-suit, in which he was engaged with his elder brother, who had refused to pay the portion left him by his father, in the year 1678 stood candidate for the town of Guildford, in Surrey, and, in 1679, for the borough of Bramber, in Sussex;

Suffex; but lost his election, to the first by the intrigues of the court, and to the second by the opposition of his own family, who, fearing the ardour and intrepidity of his temper in these critical times, made interest for his brother Henry Sidney, who was at this time in the good graces of the court, and was afterwards created earl of Romney by king William. Ann. 1683.

WHEN, on the accusation of being concerned in the Rye-house plot, Sidney was seized and brought before the king and council, he told them that he would make the best defence he could, if they had any proof against him; but he would not fortify their evidence by any thing he should say: and this propriety of conduct, in which simplicity and dignity were so happily united, as it confirmed the court in the elevated opinion they had entertained of the character of the prisoner, and from the want of that magnanimity which would have led to the desire of making a friend of so illustrious an opponent, by a fair and candid conduct, it also confirmed them in the resolution of depriving him of an existence which, whilst adorned with such exalted and formidable virtues, at once created terror, and, when judged by the rule of comparison, reflected disgrace. Against Sidney, lord Howard was the only evidence; a circumstance of so puzzling a nature, that from the end of July to the beginning of November, the court were employed in considering of methods to take him off; pardons and rewards to witnesses were offered without success, and it was for this reason found necessary to remove Sir Francis Pemberton, whose moderation at the trial of lord Russell was an ill omen to the success of the prosecution against Sidney; and Sir George Jeffries, whose well known profligacy might be depended on, and who had outranted all his brethren in outrageous abuse against the conspirators, was made lord-chief-justice of the King's-Bench in his stead. All people, says Burnet, were apprehensive of very black designs.

Removal of  
Sir Francis  
Pemberton,  
and appointment of Sir  
George Jeffries to the  
office of chief-justice of the  
King's-Bench.



Ann. 1683.

signs when they saw Jeffries made lord-chief-justice, who was scandalously vicious and drunk every day: besides a drunkenness of fury in his temper, which looked like enthusiasm, he did not consider the decencies of his post, nor so much as affect to seem impartial, as became a judge, but ran out upon all occasions into declamations which did not become the bar, much less the bench: he was not learned in his profession, and his eloquence, though viciously copious, was neither correct or agreeable. Another writer says, that Jeffries's friendship and conversation lay much among the good fellows and humorists; and his delights were the extravagancies of the bottle: no friendship or dearneſs could be so great in private which he would not use ill, and to an extravagant degree in public; his superiors, or those who could hurt or benefit him, and none else, might depend on fair quarter at his hands; his weakness was, that he could not reprehend without scolding, and that in such Billingsgate language, as ought not to come out of the mouth of any man: he called it giving a lick with the rough side of his tongue; he seemed to lay nothing of his business to heart, nor care what he did or what he left undone. This was the character of the man as given by the patriot Burnet, and the loyalist North, who with every rule of law and precedent against him, was to cope with an individual whose vigour of spirit and understanding was known and acknowledged in every country in Europe. The court saw the inequality of the contest, and it must be acknowledged, that they spared no pains to ensure the victory to their champion; he had three judges joined with him, who, for corruption and profligate servility, were equal to the honour of sitting on the same bench; a jury was returned, consisting of men of mean and low condition, and this after they had been severally examined on the subject of their tractability. One Parry, who had been guilty of several murders, that he might be enabled to help forward this important business, was pardoned, and received a commission to act

Safe conduct  
of the court.

Burnet, fol.  
ed p. 570.

act as justice of peace; but as prudence made no part of his virtues, he boasted to one of the duke of York's servants, whom he supposed a friend to the injuries intended against Sidney, that he had sent in a great many names of jurors who were sure men.

Ann. 1681.

EVERY necessary previous circumstance being thus laid, in a manner to ensure success, Algernon Sidney was, on the 7th of November, brought up to the King's-Bench bar, and indicted for treason. The indictment produced on this occasion for confusion, verboseness, and invective, exceeded all the compositions of this kind; and Sidney, instead of pleading, offered to shew, that it was impossible to plead sensibly to such a jumble of things, distinct both in nature and in law. He made a tender of a special plea, but withdrew it on being told by the court that he must either plead or demur, and that his life depended on the validity of his plea, or rather on the sentence which should be passed upon it. Mr. Williams, the counsel for the prisoner, prompted him to rely on the plea; but, on the complaint of the attorney-general, he received a severe reprimand from the chief-justice. With this indecent partiality, or rather avowal of the design to defraud the prisoner of his life, closed the prelude to the trial, and Sidney, with a kind of protest against the constraint put upon him, pleaded not guilty. In justification of a demand the prisoner had made of a copy of his indictment, he produced the statute of the forty-sixth of Edward the Third, wherein it is expressed, that *tout parties & tout gentes*, should have a copy of every record as well against the king as others. In answer to this, the chief-justice quoted the rule of court in the case of Sir Henry Vane and lord Russell; and when Sidney replied with a question, Is this a good law, my lord? he was silenced with a rule of the court, and a command to arraign him on the indictment, accompanied with this remonstrance, we must not spend time in long discourses

Trial and execution of Algernon Sidney.



Ann. 1683.

to captivate people. When the prisoner excepted to several of the jury for not being freeholders, the exception was over-ruled by an arbitrary dictate of the court; for the trial being in Middlesex, it could not be alledged, as in lord Russell's case, that the want of freehold in the city was no challenge. In ransacking the closet of the prisoner, some discourses on government had been found, which, though written with a sagacity, a conspicuousity, a spirit, and an energy which must endear the memory of the illustrious writer to all those who have any true taste for literature, or whose breasts are animated with any spark of public spirit, yet the principles it maintained, though favourable to liberty, are such as the best and the wisest men under all governments have been known to embrace. The whole discourses contain three distinct books, or chapters, and were written in answer to Filmer's Patriarcha \*. It was evident, that the work must have taken some years in composing, and the ink was so old that it might have been written half a century past, yet some mangled passages of these discourses on government were made part of the indictment, and was delivered by the king's counsel as an overt-act of the treason with which the prisoner was charged. The attorney-general, after asserting, that there had been for several years past a design of raising a rebellion, proved by insinuations and public libels spread abroad, that the king was a Papist, and had endeavoured to subvert the rights of the people, entered in-

\* In this book the divine right of monarchy is asserted, and the position is grounded on the supposition, that the patriarcha exercised regal authority, and that such a right descended to all their posterity, according to the rule of primogeniture. The whole work is a jumble of gross absurdity, false assertions, and false conclusions; and if it proves any thing, it proves that every modern government is an usurpation: yet the mere attempt to ascertain a divine right to government, gave it some weight with the monarchical enthusiasts of these times, and on this reason was deemed worthy of the notice of Sidney and of Locke.

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to the particular conspiracy of the assassination, enlarged on the design for an insurrection, and informed the court, that whilst Aaron Smith was in Scotland, the prisoner was preparing a most seditious and traitorous libel, to persuade the people of England that it was lawful to rise in arms. When the attorney-general had finished this envenomed harangue, plainly calculated to deceive the jury, and give an improper bias to their minds, West, Rumbold, and Keyling, were called upon to open the evidence, with an account of what they knew concerning a general insurrection. Sidney interposed with an interrogatory concerning the legality of the evidence; but the chief-justice, though he professed not to know whether he had received a pardon or not, ordered West to be sworn, and when Sidney asked again, whether it was ordinary that the witness should say any thing, unless it was to him and his indictment, he was silenced by a recrimination that this method of proceeding, however irregular, had been practised in the prosecutions of the popish conspirators. These witnesses, which were brought out to prepossess the jury, all declared, that they had no personal knowledge of the prisoner; that what they heard of his being engaged in the plot was by hearsay only; that according to this hearsay evidence, the prisoner at the bar, and major Wildman, had been very instrumental in breaking off the connection with the Scots, because they could not agree upon the declaration to be made on the insurrection; and, what is very particular, they plainly contradicted one another, Rumsey swearing that he had his intelligence from West, and West that he had his from Rumsey.

We are told by fabulous writers, that fear will petrify a man into a stone; but fear in the person of lord Howard had absolutely turned a man into a monster. This dastardly nobleman, whose political sentiments were exactly the same as Sidney's, and who, for this reason, had been much cherished by the illustrious prisoner,



Ann. 1685. now appeared in the character of a witness against his friend, his benefactor, and his fellow-sufferer in the same cause, in which from their early youth they had both been equally engaged, submitting, for the preservation of an existence, accompanied with almost unparalleled infamy, to become the necessary instrument of a government he hated, the disgrace of an elevated family, and the just scorn and contempt of the party he had betrayed, and the party he served: yet lord Howard is acknowledged to have been possessed of the qualities of the head, and perhaps was not totally deficient in those of the heart; a circumstance which evidently proves, that virtue can have no existence in a character where a competence of resolution is wanting. The mean part which the witness had acted at lord Russell's trial, had not entirely earned his pardon, and this boon, so highly valued by this egregious coward, was postponed till he had completed the purposes of government, in compassing the death of his illustrious patron. After shewing that he intended thoroughly to deserve his pardon by an artful observation on the uniformity of truth, and the exact similitude of the facts contained in the previous evidence, and what he was about to relate to the court, he entered on the same detail in regard to the council of six which he had made at lord Russell's trial, but with several additions, as in particular, that the duke of Monmouth, colonel Sidney, and himself, were the first contrivers of the establishment of a select council: that Monmouth undertook for the lord Russell and the earl of Salisbury; and the colonel, for the earl of Essex and Mr. Hamden: that the first session was opened at Mr. Hamden's house: that magazines and money were discoursed on: that an agreement was made to stand on public grounds, without a personal interest: that it was determined to send a messenger to the discontented Scots, among whom were the lord Melvin, Sir John Cochran, commissary Monroe, and the two Campbells; and that the prisoner was the  
man

man who recommended Smith to be that special messenger. Here Ann. 1683, the witness made a full stop, and declared, that this was all which occurred to him which had passed at the two first consults, and he had not been at any other. But this deposition not being sufficient to answer the pompous introduction which had been made by the attorney-general, Mr. Attorney, Mr. Solicitor, the chief-justice, and judge Withins, the abhorrer, served as prompters to refresh the memory of the witness; and, by the assistance of several pertinent interrogations, he was able to recollect that Smith was to carry a letter, which he supposed was written by lord Russell, under the disguise of transacting some business on the plantation in Carolina. The evidence yet not coming up to the point, the question was asked, What the Scotch gentlemen were to come up for? The evidence, now sensible of the error he had committed, and the reparation which was expected from him, answered, that it was to sound the temper of the Scotch; to learn what opportunities there were of putting them in commotion; how men might be raised; what use could be made of Argyle, and so to adjust matters, that the party might, in all things, draw together: that he was with colonel Sidney when he took out several guineas, which he, Sidney, said were to give Smith. Upon two more interrogations, the witness farther deposed, that Sidney had told him that Smith actually did go to Scotland; and the evidence being now closed, it was demanded of the prisoner, Whether he would ask lord Howard any questions? Sidney replied, "I have no questions to ask him." This expression of contempt for the man, whom the prisoner held too infamous to be parlied with, was most candidly interpreted by Mr. Attorney into a confession of guilt, by saying, "Silence; you know the proverb." Here Sir Andrew Foster, and Atterbury the messenger, were produced to prove, that the Scotch gentlemen named by lord Howard did actually come to town under the Carolina pretence; and that

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Ann. 1683. on the rumour of a discovery, all but Monroe absconded: that a messenger was sent into the city to seize Cochran and Campbell; and that the common-serjeant had taken them before he got thither, as they were endeavouring to make their escape. This closed the evidence in regard to the first overt-act.

SIR Philip Lloyd, the clerk of the council, was now called to prove, that he being sent with a warrant to seize the papers of the prisoner, found the pamphlet mentioned in the indictment, and which the attorney-general had asserted was writing whilst Aaron Smith was in Scotland. One passage of this book, which had been mingled in the indictment, as it best served the purpose of the lawyers, was now read in court, and appeared to be no more than a very innocent, yet very judicious comment on the old lawyer Bracton. When the reading was over, the sheets were handed to the prisoner, and the chief-justice, under the pretence of favour, but in order to draw him in to say somewhat which might prove the author, said, "I perceive you have disposed them under certain heads, so what heads will you have read?" The craft of the chief-justice did not escape the penetration of Sidney, who returned answer, "Let him give an account of it who wrote it:" and this stratagem not taking effect, three several witnesses were produced to prove the similitude of hands; and Mr. Attorney closed his evidence with the record of lord Russell's conviction, a circumstance which had no more legal authority against Sidney, than the story of lord Essex's death against lord Russell. Sidney was now left to his defence, and having been told that he was indicted on that branch of the statute of the 25th of Edward III. he asked with an air of scorn and derision, "Whether a paper found in his study of Nero and Caligula, was a proof that he had so conspired, and compassed the death of the king?" The chief-justice replied, "That he should answer this interrogation to the jury, who were to take every

every point of law from the court." Sidney, now descending to Ann. 1683. particulars, asserted, "That the conspiring to levy war, and to kill the king, were two distinct things; that the latter only was treason; that in either case two witnesses were necessary; that of the latter nothing had been said; and as to the former, it was attested only by lord Howard, against whose credibility there was much to say; that the council of six, which he talked of, were strangers to each other; that himself had never spoken to the duke of Monmouth above three times in his life, and one of these times was by a contrivance of lord Howard, by telling the duke, that he, Sidney, had invited him, and by telling Sidney that the duke had invited himself; that it was utterly improbable that men, scarce knowing one another, should enter into such consultations as were laid to their charge, unless they were mad; that lord Howard's depositions did not agree with what he had deposed against lord Russell; that he had altered dates and circumstances, and made several additions; that he had accused himself of divers treasons, for which he had received no pardon; that he had expressed himself to be under the terror of punishment; and that, according to the law of God and man, this ought to destroy his testimony; that he was his debtor for a considerable sum; that his mortgage was forfeited; that he was a subtle man, and had managed in a manner to get his pardon, and save his estate; that he had often solemnly attested there was no plot; and, as to what he had sworn concerning Aaron Smith and the two consults, all rested upon his single evidence, and therefore had no force in law against him; besides the improbability of the thing, that men without followers, officers, soldiers, place, time, or money, should enter on so vast a design, or hope to put it into execution; that lord Howard, in his first deposition had said, that money was mentioned in jest, but now he spoke of a certain sum, without saying how or where it was to be raised; that he had not deposed what one man had said or re-

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solved;



Aug. 1683. solved, much less what he, the prisoner, did say or resolve; that, as to the papers, Sir Philip Lloyd was not in a capacity to be the king's witness; that even in the arbitrary government of France, a few years ago a minister of state had his papers seized and taken from him, and several of them had dangerous plots against the king in them; but it was held no use could be made of them, because they had not been inventoried in his presence, nor in the presence of any one deputed by him; that similitude of hands was nothing; that hands might be counterfeited in a manner that no man could know his own hand; that the papers now produced appeared to be a polemical discourse, in answer to Filmer, and not calculated for any particular government in the world." Here the prisoner attempted to explain the pernicious opinions contained in Filmer's publication, but was interrupted by the chief-justice, and told, that the court had nothing to do with Filmer's book, and that the prisoner was not to spend their time in gratifying a luxuriant way of talking. "I say then, said Sidney, that the paper is not proved upon me; and, secondly, that it is no crime if it be proved." These were positions which it was so impossible for the court to confute, if they were suffered to be argued, that the chief-justice, on the pretence of shewing him the nearer way to justification, endeavoured to turn the prisoner from the point, by telling him, that the material part of his defence would consist in the taking off the credibility of lord Howard's evidence. Sidney does not appear to have made an immediate discovery of the wicked art of the chief-justice; however, he attempted several times to speak on the subject, but was at length driven out of his method by the continual interruption of the chief-justice; or some one or other of the judges; and the witnesses to invalidate lord Howard's testimony were now produced by the prisoner.

THESE

These witnesses were the earls of Anglesea and Clare, the lord Paget, two of lord Howard's own kinsmen, Dr. Burnet, Ducaſe a Frenchman, Mr. Blake, and two of the priſoner's own ſervants, whoſe evidence all tended to prove, that lord Howard had ſolemnly and repeatedly declared that there was no real plot, and that it was a mere ſham of the government. The earl of Clare in particular ſaid, that the witneſs had declared, that if ever he was queſtioned again, he would never plead; that the quickeſt diſpatch was the beſt; and that he was ſure the government would have his life, if he was ever ſo innocent. Mr. Edward Howard, with great ſpirit, atteſted, that his intimacy with lord Howard was ſuch as to render all reſerve unneceſſary; that from the knowledge he had of his lordſhip, it was his opinion, that if he had been in any ſuch ſecret he would not have ſtaid to have been taken, or have made his application to the king in a manner ſo unfuitable to his quality. Here the chief-juſtice interpoſing with theſe words, "No reflections upon any body," Mr. Howard, a little warmed on the occaſion, ſaid, "That the ſame kind of reproof accidentally given him at lord Ruſſell's trial, by reaſon of a weak memory, made him omit ſome particulars which he would ſpeak now, viz. that lord Howard had told him, that to his knowledge it was a ſham plot, forged in the dark by prieſts and Jeſuits; and that himſelf went to lord Halifax, in lord Howard's name, to declare as much under his hand: and, adds Mr. Howard, from my conſcience and my heart before God and man, if my lord had ſpoken before the king ſitting on his throne, I could not have more believed him from that aſſurance he had in me; and I am ſure, from what I have ſaid, if I had the honour to be of this gentleman's jury, I would not believe his evidence." This ſpirited declaration brought a ſevere reprimand from the bench and the bar, and Mr. Blake now appeared to attelt, that lord Howard had told him, "That he had heard nothing of his pardon, a circumſtance which he could



Ann. 1683.

ascribe to no other cause than that he was not to have such indulgence till the drudgery of swearing was over." The duke of Buckingham, Mr. Hunt, and Mr. Burroughs were now called by the prisoner, but he was told, that the duke of Buckingham had not been subpoenaed; and, on the absence of Mr. Hunt and Mr. Burroughs, he observed, "That it was a hard case, for one of them was to prove that lord Howard had declared, that he could not have his pardon till he had done some other jobs." Mr. Wharton now stood up and said, "That if his lordship would please to shew him any of those sheets of paper which had been produced against the prisoner, he would, in a small space of time, undertake to imitate them in such a manner that he should not know which was the original."

The evidence being thus closed on both sides, the prisoner was directed to enter on his defence. This he did with a sagacity and a precision which would have done honour to the best lawyer that ever sat on the bench, or pleaded at the bar; and though little calculated for the understanding of an ignorant jury, yet it served to expose, in the most conspicuous light, the criminal partiality of the judge, and the small regard paid by the courts of justice to the dictates of those statutes which were framed for the purpose of determining with precision the legal guilt or innocence of the subject. After a very exact and critical definition of the statute of the twenty-fifth of Edward the Third, with proper comments on the doctrine of treason by implication, the prisoner proceeded to assert, that even if the pretended conspiracy to levy war had been proved, all which the single witness, lord Howard, had said, amounted to nothing more than a discourse at large, of what might or might not be done, without coming to any one resolution; that it was even ridiculous to imagine, that a war could be made by five or six men, not knowing one another, or trusting one another; that

as to the business of Smith, it was so imperfectly told, so merely conjectural, and in every respect so inconclusive, that wanting authority itself, it could give none to any thing else; the very letter he was said to carry was not imputed to him the prisoner; the contents of it were unknown; the delivery unproved; and, if certain Scottish gentlemen did afterwards come up to London, nothing had been proved of what they had transacted there. If it could be proved he ever had any communication with any one of them, he would be content to suffer; nor had he ever sent or written a letter into Scotland since the year fifty-nine, nor did he know any one man in Scotland to whom he could write: that as to the papers, admitting they were found in his custody, no fair judgment could be made of their end or use, without producing the whole; there was besides no connection between the papers and the depositions made by lord Howard; its being an answer to Filmer shewed, that it could not be the growth of that crisis; and the very notes would furnish out work enough for four or five years, to make out what was contained in these scraps of paper. The two matters thus standing separate, and not one circumstance relative to killing the king appearing in either, if each was ever so self-evidently proved, or by ever such unquestionable witnesses, neither came up to the charge in the indictment, or within the statute on which it was founded; and if neither separately was treason under the description of the law, both together could not be made such; for this would be setting up constructive treasons, which that very statute was calculated to prevent, and which is thereby, as also by several other statutes expressly reserved for the judgment of Parliament; and, finally, the papers in question had never been published or shewn to any body, not even to lord Howard himself, though so dangerously intimate with the prisoner, consequently they were neither directly nor indirectly any part of the conspiracy, nor any way an offence either against prince or people. The prisoner demanded counsel

Ann. 1683.



Ann. 1683.

to argue these points of law, on the authority of the statute of the twenty-third of Elizabeth, and several judgments of Parliament; and closed his defence with quoting a recent precedent, by which it had been determined, that similitude of hands did not extend to any criminal case.

AFTER the chief-justice had taken upon him to answer the law authorities quoted by Sidney, with these significant words, We are of another opinion, Sir Hensage Finch, the solicitor-general, according to the rule of his office, took upon him to reply for the king, and, says that honest historian Ralph, was so extremely careful to acquit himself as a good advocate, that he forgot all the duties of a Christian, a fellow-subject, and a fellow-creature. He asserted, that the prisoner was mistaken in his law; but proved the assertion by no better authorities than the unjust and illegal precedents which had been set by the courts of justice in this reign: he summed up all which had been advanced by West, Rumsey, and Keyling, though declared to be no evidence, with this salvo, that if it had stood alone, it would not have affected the prisoner. Thence he proceeded to the depositions of Howard, Foster, and Atterbury, which he artfully wore into one story, against which he asserted, that no invalidating objection had been made: he affirmed that the testimony of the several persons who appeared in behalf of the prisoner, had not impeached the credit of lord Howard in the least; and that even the words spoken by the witness to Blake, did not imply that his promise of pardon was conditional: he asserted, contrary to recent authority, and that which must put every man's life and character in danger, that similitude of hands was a legal proof; that what had been read of the papers contained a series of argument, which, together with the other evidence, was sufficient to prove

10. This was determined by the majority of the judges even in the arbitrary times of Henry VIII.

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the compassing the death of the king, and was of more weight Ann. 1683. than two witnesses; that hence arose sufficient demonstration, that the imagination of this man's heart was nothing but the destruction of the king and government, and indeed of all governments; and that he was to be looked upon as the most dangerous of all conspirators, because he acted upon principle, and not by the influence of passion, the motive which usually actuated other men; and that it would be a sad case when men wrote that it was lawful to depose kings, they breaking their trust, and act thus according to their consciences.

SIDNEY now asked leave to speak a few words. "I desire," says he, "that Mr. Solicitor will not think it his duty to take away men's lives any how;" and was going to proceed, when he was interrupted by the chief-justice, and told, that the court never admitted the prisoner to say any thing after the king's counsel had concluded. "My lord, returned the prisoner, it was a wise man who said there never could be too much delay in the life of a man; I know the king's counsel may conclude, if they please, but I would not have Mr. Solicitor think, that it is enough by one way or another to bring a man to death. My lord, this matter of Sir Henry Vane is utterly misrepresented." This spirited reply, for a moment, abashed even the brazen front of Jeffries, and extorted a kind of concession that what the king's counsel had said, of which there was no proof to make out, was not to be taken into consideration: "Then, my lord, says the prisoner, here is a place or two in Hale, for the overt-act of one treason not being the overt-act of another: your lordship knows, that Hale and Coke were both against it: "Compassing," says Hale, by bare words, is not an overt-act; conspiring to levy war is no overt-act." Here the prisoner was interrupted again by Mr. Solicitor, who was sensible of the weight of these authorities, and knowing that if he could silence the prisoner, he was sure of his cause, with an affected candour submitted



Alfred resj. mitted all the mistakes he had made, both in matter of law and fact, to the judgment of the court.

The last part of this mock trial now remained to be played by the chief-justice, which, says Ralph, he did with such a lawyer-like dexterity that none but king Alfred could have properly rewarded him for it. After bespeaking the favour of the audience, by declaring that neither the king nor any of his judges desired to take away the life of any man, which by law ought not to be taken away, and that for his part he had rather many guilty men should escape than that one innocent man should suffer, he proceeded to confirm all which the solicitor-general had advanced, in regard to the law, which, he told the jury, they were bound to understand as it was given from the bench; and though he acknowledged, that to levy war and to compass the king's death, were two distinct species of treason, and that a man could not be sentenced capitally for only conspiring to levy war, yet if the indictment was laid for compassing the king's death, and the conspiring to levy war was alledged as an overt-act, it led, he said, to a legal conviction. After this happy definition of the law, which the jury were again told they were to take as directed from the bench, the chief-justice proceeded to distinguish between hearsay and positive evidence, remembering withal that what was practised in this case had been authorised by the practice in lord Stafford's; and that though hearsay did not affect the prisoner, it supported the credibility of the witnesses, and also of the plot in general, which consisted in the design of a general insurrection, not only to destroy the king and the duke, but to destroy all the king's loyal subjects; and in taking away their lives, to take away the life of monarchy itself, and to subvert the religion established by law. That solemn, fatal, and false decision of the question put by lord Stafford, was now brought by the chief-justice as an authority to touch the prisoner, whole

whole case extended to circumstance and tendency, whereas the words in the decision simply relate to two several corresponding overt-acts in the same treason, and could never, in any fair sense, affect the case in question, or make a literary composition of Sidney's, never communicated to any single person, part of the same treason meditated by the council of six, in concert with the Scots. Farther to enforce the inference on this authority, the chief-justice quoted an opinion which, he said, had been delivered some time since by all the judges in England, viz. that if it was proved by one witness, that a man bought a knife of J. S. to kill the king, and another proves, that the same man bought a knife of J. S. they were two witnesses sufficient to prove the purchaser guilty of high-treason.

It is easy to see that this curious opinion of the judges, if such an opinion had been ever given, would put it in the power of any two confederate villains to take away any man's life who had ever bought a missile weapon: but even in this opinion there is a lameness of action presumed, of which there is not the smallest trace in the case of this prisoner at the bar. However, the chief-justice, after enlarging on the evidence given to prove the similitude of hands, proceeded to assert, that the papers contained all the malice, revenge, and treason, that mankind could be guilty of; that in these the prisoner carried on the grand design, and that the doctrines in the one suited with the debates in the other; that a general insurrection was discoursed of in both; that the late rebellion was begun by such kind of principles; that if these papers were proved to have been written by the prisoner, instead of two, they would have the weight of twenty-two witnesses against him; and that lord Russell had been indicted, condemned, and executed, on a less testimony. In summing up the prisoner's defence, the partiality of the chief-justice was as flagrant as the fallacy and sophistry in the first part of



of his charge. In speaking of the mortgage which Sidney had upon lord Howard's estate, he said, the fact so otherwise appeared than by the prisoner's allegation; and when the prisoner remonstrated to the contrary, by saying, lord Howard had confessed it in open court, he had recourse to another extenuative, by suggesting, that in case Sidney should be convicted, the debt would accrue to the king, and, consequently, the evidence would not be the better for it. In speaking of the depositions which had been given in, to shew that lord Howard was no credible witness, he urged, that his several solemn disavowals of the plot were so many proofs of his concern in it; and that what he had said in relation to the drudgery of swearing, shewed him an unwilling witness, which made for his credit instead of destroying it. As to the papers, he barely mentioned the circumstance of the oldness of the writing, without allowing that it had any weight; took no notice of the material inference drawn by Sidney, that these papers could not have been written during the time that Smith was on the message to Scotland; nor of as material a one, that the book was apparently an answer to Filmer. Judge Withins, as a close to the opinions given from the bench, assured the jury, that his learned brethren in all points of law agreed with the chief-justice; and, says he, though colonel Sidney has told you that a mighty conspiracy is come to nothing, yet none but the Almighty Providence is to be thanked for that one of themselves was troubled in conscience, and came and discovered: had not Keyling discovered, God knows whether we might have been alive at this day. The jury having now received every information which could possibly tend to give a colour to their verdict, for the sake of decency withdrew, and in about half an hour brought the prisoner in guilty.

The chief-justice, who had with such singular courage over-ruled eight or ten very important points of law, and decided them

them without hearing counsel, was the only man capable of conducting the proceedings against the prisoner to a happy issue; and contrary to what had been done in lord Russell's case, he attended on the ceremonial of passing sentence. Sidney, with a spirit and perseverance equal to that which he had displayed during the course of his trial, when summoned to speak on the occasion, declared, that he had not had a trial, for some of his jury were no freeholders, and no precedent could be shewn of any man's having been so tried when the indictment was laid in a county. He requested that a day of hearing might be appointed, and counsel assigned to argue the point. He shewed that there was a material defect in the indictment, which made it absolutely void, for the words *defensor fidei*, had been left out: that the papers had no otherwise been proved upon him than by a similitude of hands, which, in a criminal case, ought not to have been permitted: that, however, there was no treason in them. He desired the nature of the thing might be examined, and said that he was willing to put his life upon that issue: that the duke of Monmouth had now surrendered himself, and if he would say there had been any such consultations as had been deposed, he would acknowledge whatever the court pleased: that he had been brought up to be arraigned on the seventh, by Habeas Corpus granted the day before, when no bill had been exhibited against him, and when his prosecutors could not know it would be found, unless they had a correspondence with the grand-jury: that he was deterred by the court from putting in his plea: that he had been refused a copy of the indictment, which, by an express statute, is allowed to all men: that the jury had not been summoned as they ought to have been by the ordinary bailiff, but consisted of such only as had been selected by Burton and Graham. All these objections were over-ruled by the chief-justice, with an insolence yet more brutal than his behaviour during the trial. Judge Withins, who appeared to be drunk, told the prisoner



Ann. 1683. he asserted a falsehood ; and immediately after Mr. Bampfild had, with modesty, interposed, by saying, he hoped his lordship would not proceed to judgment when there was so material a defect in the indictment as had been pointed out by the prisoner, the chief-justice declared, that there remained nothing for the court to do but to pronounce sentence as the law required. Here the prisoner threw in his last remonstrance : " I must appeal to God and the world, said he, that I am not heard." " Appeal to whom you will," replied the chief-justice, in a passion ; and then reproaching the prisoner with the grace he had received from the king in the general pardon, and also with lying under particular obligations to his bounty and mercy, he, with the usual affectation of tenderness and charity, proceeded to pronounce the sentence, which he had no sooner finished, than the prisoner, with a loud and firm voice, expressed himself as follows : " Then, O God ! O God ! I beseech thee to sanctify these sufferings unto me, and impute not my blood to my country, nor the city through which I am to be drawn ; let no inquisition for blood be made for it : but if any shall be made, and the shedding of innocent blood must be revenged, let the weight of it fall only on those who persecute me, for righteousness sake !" Jeffries, starting from his seat, declared that the prisoner's senses were affected, and Sidney in return calmly stretched out his arm, and desired him to feel if his pulse did not beat at its ordinary rate. Instead of applying for mercy to the throne, he demanded justice ; and set forth in a petition to the king, the injuries which had been done to the laws in his person, and desired to be carried to the royal presence, that he might have an opportunity of shewing the king how much his own interest and honour were concerned in giving that redress which his judges had refused. If any regard to common decency had remained with the court, this just request must undoubtedly have been granted ; for every man who was capable of feeling for himself, or his country, was shocked at a precedent destructive

destructive of all personal security: even the rancour of party underwent a momentary suspension, and gave way in the generality to sentiments of justice; and the court demurred for a fortnight before they ventured to sign the warrant for execution: Ann. 1683.

THAT elevation of sentiment, that dignity of soul which appears in every part of Sidney's conduct, and which age and infirmity had in no degree abated, shone forth with a singular lustre on the fatal day which put a period to his glorious life. He walked on foot to the place of execution; he asked no friend to attend him; he ascended the scaffold with the air of one who came to harangue, or to command, not to suffer; he told the sheriffs, who had returned a packed jury against him, that it was for their sakes only that he reminded them, that his blood lay on their heads; and when he was asked if he had any thing to say to the people, he answered, "I have made my peace with God, and I have nothing to say to man: I am ready to die, and will give you no farther trouble." Thus saying, he hastened to the block, and his head was severed from the body with one stroke of the axe.

Thus died the man, who had formed his life and manners after the brightest patterns of human virtue which the best ages of mankind afford. "If I might live, and be employed," wrote Sidney to one of his friends, who was importuning him to come over, and use the interest he had with Monk for his personal security and advancement under the monarchy, "can it be expected that I should serve a government which seeks such detestable ways of establishing itself? Ah! no, I have not learnt to make my own peace by persecuting and betraying my brethren more innocent and worthy than myself: I must live by just means, and serve to just ends, or not at all. After such a manifestation of the ways by which it is intended the king shall



govern, I should have renounced any place of favour into which the kindness and industry of my friends might have advanced me, when I found that those who were better than me were only fit to be destroyed. Whilst I live I will endeavour to preserve my liberty, or at least not consent to the destroying it; I hope I shall die in the same principles in which I have lived, and will live no longer than they can preserve me. I have in my life been guilty of many follies; but as I think of no meanness, I will not blot and defile that which is passed by, endeavouring to provide for the future. I have ever had in my mind, that when God should cast me into such a condition as that I cannot save my life but by doing an indecent thing, he shews me the time is come that I should resign it. My thoughts as to king and state depending on their actions, no man shall be a more faithful servant to him than myself, if he make the good and prosperity of his people his glory; none more his enemy, if he doth the contrary."

THE administration of the government, from the first period of the restoration, was not of a complexion and tendency to conciliate the affections of a man, whose notions, in regard to the management of public affairs, were formed on the nicest principles of justice and honour; and, according to the resolution mentioned in the above letter, as long as the republican party had any existence in England, Sidney was active in every scheme which tended to promote their cause; and after his return to England, he joined the popular party, in the hopes either of regulating the English monarchy on more correct principles, or of re-establishing that mode of government, which he conceived would more naturally produce the security of the subject, and the honour of the nation.

Such sentiments carried into practice, and sealed with the blood of this illustrious Englishman, it is to have been imagined, would have rendered his memory sacred to that country on which his writings and heroic virtues have reflected lustre; but there is a spirit of bitterness, of rancour, of envy, and the worst species of levelling gone forth among us, which even the crown of martyrdom cannot escape. We are told, that when the Romans once beheld their Cato in a situation not quite agreeable to that consistent dignity which graced the public and the private virtues of this godlike man, they modestly stepped aside, and instead of triumphing over humanity, by proclaiming aloud this small blemish in an exalted character, they turned their eyes from the wounding sight. This was the generosity of ancient manners; but what was the conduct of Englishmen on the assertion of the French minister, Barillon, published near a hundred years after the martyrdom of their last eminent patriot, that he had received two several sums from the court of France? Why, instead of turning their eyes from the scandalous page, or even of examining into the nature of an assertion which, inaccurately considered, carries the form of an act somewhat derogatory to the honour of their hero, they exulted in the weakness of humanity, and consequently in their own shame. In the fancied corruption of the most perfect pattern of human excellence they found an authority for enormous deviations from common honesty, and by inculcating the doctrine of an irresistible depravity, and levelling every human character, they imagined they had, in some measure, conciliated reputation with the mammon of unrighteousness; for if every man is a villain in his heart, there can surely be no infamy. Thus whilst England has been considered and respected by foreigners as the mother of heroes, legislators, patriots, and martyrs, her own sons take a satisfaction in convincing the admiring world, that they were under a gross mistake, and that England never produced any



Ann. 1683. character considerably above the stamp of vulgar life; but there is a glaring impolicy as well as meanness and wickedness in these attempts. Let the man who fattens on the spoils of corruption, who wantons in the parade of ill-gotten riches, who feasts on the bread of the deluded, let him suffer the honest man to reap that meagre harvest which he disdains; let him be suffered to enjoy his poverty and his honest fame; let him at least rest secure in the sanctuary of martyrdom, lest by persuading all mankind that virtue is a non-entity, the market should be over-stocked with villains; that the price of his commodity should be lowered; and that abler politicians should attain the object of his desires, for this he may be assured, that all those eminent talents which are necessary to constitute a truly great man, could never fail of meeting with an unlimited success in the ways of a corrupt advancement.

THERE is, undoubtedly, much of malice and of falshood in the party-writings of our ancestors; but that general spirit of levelling which pervades modern society, is a new circumstance of corruption among us, and takes its rise from an excess of vanity, which is indeed common to the human character, but which owes its luxuriant growth to circumstances which help to destroy that humility which must ever rationally attend on insignificance, and seduces every man into a false persuasion of self-importance. What with the opportunity of puffing in the public newspapers, a feather well adjusted, a title, a ribbon, unexpected riches acquired in the East, or a successful monopoly, every individual becomes of consequence; and when the mountains are levelled the mole-hills will appear: but if with the breath of calumny and slander, if with the poisonous ink of detraction, we sully the characters of the illustrious dead, what hope can we reasonably entertain that the present degeneracy of manners

can be brought ever to its former state, unless we should

should not increase with a rapid course through all succeeding ages! The contemplation of a great character never fails to warm the young and generous student into the noble attempt of imitative virtue, and helps to guard the mind against the impulse of selfish passions, and the contagion of example. It is indeed only by dwelling on the sublime beauties of heroic character, that we can discover that amazing opposition of the hateful and the lovely in moral excellence and moral deformity, and that we can be animated into a passion for disinterested virtue; but what patterns shall we select for the model of youthful emulation, if we admit of modern scepticism in regard to the reality of that virtue which we have long adored in the sacred memories of our forefathers: besides, it must deaden all generous attempts to an exalted conduct, when one supposed error in the judgment, one failing of humanity brought to public view by accident, or private malice, shall obscure the lustre of a life of glory, and level a great character to the base standard of common humanity; for as no individual whilst he continues in a state of frailty, can be certain that he shall always enjoy his understanding free from any alloy of error, or any cloud of insanity; or that he shall every moment of his existence bear the sovereign rule over his temper, his passions, and his prejudices; he will never, with all the labour and the forbearance necessary to build up an eminent virtue, be induced to purchase that transitory fame which may only serve to render him a more conspicuous object of the contempt of the multitude.

THAT a man of Sidney's rank, acknowledged abilities, and unstained character, would have been received with open arms by the English government, had he been willing to render his talents subservient to his private interest, and the giving strength and permanence to the prerogatives of the crown, or to forward the criminal designs of the court, is, I think, a matter of self-



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self-evident a nature, that all arguments tending to prove the position would be useless and ridiculous. That Sidney had rejected the importunities of his family, and the invitations of his friends; that he had refused to avail himself of the advantage which attends great parts and endowments; to establish an interest with the present government equal to what he had enjoyed with the last, appears from the whole tenour of his conduct, and from his letters of correspondence; and can the rankest party-writer, who possesses any particle of common sense, or any degree of modesty, deny that the firmest principles of honour and integrity must regulate the desires and inclinations of that man who, from motives of conscience and opinion, could reject the opportunity of acquiring distinction and riches in his own country, and submit to a voluntary banishment and precarious subsistence from the favour of a foreign prince!

If I was addressing a public renowned for candour and for discernment, I should say, that such a life as that of Sidney's, supported by his writings, and sealed with his blood, was more than sufficient to counterbalance any assertion which could be made in his disfavour: I should observe, that the inflexibility of his temper in matters in which he believed himself to be in the right, would not suffer him meanly to supplicate his own father for money, or in the smallest point to recede from principle, though reduced to great straits and difficulties in a foreign country: I should assert, that it was more probable that Barillon might charge his master with money which was never paid, than that a man of Sidney's high spirit and inflexibility of temper should be prevailed on to take money from the court of France for any mean and dishonest purpose: but, in the present state of manners and opinions, I shall exclude every supposition and every argument which might rationally be drawn from established character and an incorrupt and active integrity, manifested by a long succession

tion of repeated acts of forbearance, self-denial, and personal danger. I shall allow in its fullest latitude Mr. Barillon's assertion, that Algernon Sidney, who had been some years supported in those extremities which his integrity had brought him into, by a pension from the French king, received two several sums of money from the same prince after his return to England, and "I believe," says the minister, he may be gained to your majesty's service?" but what was this service? Was it betraying the liberties of his country to a foreign or domestic tyrant? was it to increase the power of France to the prejudice of his native country? No; it was to procure the dissolution of a base and venal Parliament; it was to disband an army raised on the design of establishing despotism in England; it was to pull down a minister who had been the principal agent in concluding the king's infamous money-negotiations with the court of France, and who had been the promoter of corruption in Parliament, and of arbitrary power in the state. "The sieur Algernon Sidney," writes Barillon to his master, is a man of very high designs, which tend to the re-establishment of a republic: he is in the party of the Independents and other sectaries, and this party were masters during the late troubles; they are not at present very powerful in Parliament, but they are strong in London; and it is through the intrigues of the sieur Algernon Sidney, that one of the two sheriffs, named Bethel, has been elected." Let that party, who inveigh against Sidney for his prejudices in favour of a republic, say if this conduct was a deviation from principle; and if not, what becomes of the assertion that Sidney was bribed by the court of France? Does not bribery consist in the engaging a man to do that for money which is not agreeable to his inclinations, his opinions, and his principles; and which he would not otherwise have done without it? If any part of lord Howard's evidence is to be credited, he saw Sidney take sixty guineas out of his pocket for the purpose of

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forwarding the design of the popular party against Charles. It is highly probable that as the faction in England on whom Sidney had any influence, or at least pos- sess of Independent, the generality of whom were in great circumstances, that great part of the money which he at different times received from the court of France, might have been expended in useful donations to support his credit and his influence with his partisans; but suppose it was really pocketed for his own use and entertainment, there is sufficient matter in the apology written by himself, and published after his death, to justify him fully on this point. After relating several attempts which had been made to assassinate him in his exile, Sidney proceeds as follows: "The asperity of this persecution obliged me to seek the protection of some foreign prince, and being then in the vigour of my age, I had reputation enough to have gained honourable employments; but all my designs were broken by messages and detours from this court, so as none durst entertain me; and when I could not comprehend the grounds of dealing with me in such a way, when I knew that many others who had been my companions, and given, as I thought, more just causes of hatred against them than I had done, were received in favour, or suffered to live quietly, a man of quality, who well knew the temper of the court, explained the mystery to me, by letting me know that I was distinguished from the rest because it was known that I could not be corrupted." If a Fabricius should arise from the dead, and make any objection to Sidney's having condescended to accept, in these circumstances of persecution, a decent support from the bounty of a liberal monarch, we should attend with gravity to his scruples and endeavour to remove them by entering into the nature and exigencies of modern life: we should assert, that it was a just and competent knowledge of the value of external advantages, which gave the stamp of virtue to acts of forbearance: we should argue, that a total indifference to a state of poverty or affluence, as

It in a manner annihilates all temptations to every species of venal corruption, it in a great measure weakens the merit of public and private integrity; and that a man's rejecting, with a becoming contempt, every external advantage which would naturally follow a deviation from principle, did not lay him under any obligation to refuse advantages which were in no manner connected with any such derogatory circumstances, and that those noble sentiments which led great minds to despise the wages of iniquity, could be no rational bar to the receiving emoluments and favours from the liberality, the ostentation, or the personal affection of an individual, who did not require any sacrifice of the nicest rules of honour, or the strictest dictates of principle. Arguments like these might, in all probability, have convinced the Roman consul, that the regard which Sidney paid to the alleviating his necessities, when such an alleviation could be obtained without any deviation from principle or honour, rather heightens than decreases the merit of his acts of forbearance: but with what face of serious argument can we encounter the overstrained delicacy of an age, who, on all occasions where the detraction of an illustrious character is not in question, acknowledge such a necessity in the article of money as to authorise every species of venality, although attended with the most destructive consequences, and aggravated with the additional crimes of deception, treachery, and the breach of private and public trust.

This ridiculous charge of corruption, though it has been the loudest, has not been the only attack which has been made on the moral character of the illustrious patriot, whose persecutions and sufferings we have just narrated. Mr. Hume, whose partiality on the side of the court in this part of his history, is a greater disgrace to his admirable genius and profound sagacity than any other page of his historical writings, accuses Sidney of ingratitude, in having obtained a pardon of the king, and then



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entering into measures to disturb his government. In all my researches on this subject, I have not found this pardon to be ascertained; and as I have before observed, I cannot discern any occasion for such a particular pardon. The brutal Jeffries only reproached the prisoner with the grace he had received in the general act of indemnity, and in the letters of thanks which Sidney wrote to the French minister, who transacted this business of his return to England, there is only mention made of a passport from the king: but provided that Sidney's having received a pardon was a proved fact, whoever reads in his Apology the state of the case, will find that all the ingratitude and baseness lay on the side of the king, who, with the arm of injustice and oppression, persecuted to death the man from whom his family had received in their distress personal obligations, and to whose interposition he owed the preservation of his life.

During the period of Sidney's sentence and execution, he wrote a long vindication of himself, and delivered it to the sheriffs, but suspecting that it would be suppressed, he gave a copy of it to a friend. The event proved this, to be a necessary caution, for it was not till after it was known that written copies were dispersed in several hands, that it was suffered to be printed. In this vindication Sidney gives a general account of the persecution he had suffered from the court of England during his residence in foreign countries, and enters into a very minute detail of the hardships and injustice which he had met with during his trial, a detail which ought to be carefully perused by every Englishman, as a necessary caution against the sophistry of the bar, and the dishonesty of the bench; as a necessary caution to watch, even with a jealous vigilance, over the proper nomination and independence of juries, and as a necessary caution against that unlimited doctrine, which has of late years; prevailed,

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prevailed, that justice be done in all cases, and in all circumstances, to take the law from the mouth of the judge. The whole of Sidney's vindication is written with a spirit, in all respects, equal to what might have been expected from the illustrious author of the Discourses on Government: he confuted the testimonies on which he had been condemned, and asserted, that to reach him, the bench had been filled with men who were the blemishes of the bar; and he regretted death chiefly because it had been inflicted by mean hands. In his own injuries, he lamented those which his country had sustained, and he laid down those great and generous principles of policy which can alone give any permanent happiness to civil society. Instead of praying for the king, he prayed for his country; instead of drawing a veil over the cause for which he suffered, he addressed his Maker as engaged in it with himself. "Bless thy people, concluded he, and save them: and though I fall by idols, suffer not idolatry to be established in this land: defend thy own cause, and defend those who defend it: stir up such as are faint, direct those who are willing, confirm those who are wavering, give wisdom and integrity to all. Grant that I may die glorifying thee for all thy mercies, and that at the last, thou hast permitted me to be singled out as a witness to thy truth, and, even by the confession of my opposers, for that good old cause in which I was, from my youth, engaged, and for which thou hast often and wonderfully declared thyself."

We are told by Burnet, that these last words furnished much matter for the scriblers of these times; and by Echard, that Sidney's address to the Deity was thought so enthusiastical and shocking, that his death was much less pitied and lamented than that of lord Russell, though the hardships he met with were greater than any man had met with before him. Of what kind were these people, and by what principles they were governed, who were so violently shocked



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the same with an address, which plainly showed the inability of  
those sentiments, by which the author had professed to direct his  
conduct, to be easily determined. In such a case, it is to be observed, that  
the address, upon the whole, was with the same spirit of treatment  
as the *Discourse on Government*, and the *Discourse on Law*; and  
it was intended to be a continuation of the same, although it  
plainly refers to that publication, and to the death of the author  
the author had been pursued by the court for the part he had  
taken during the civil war, and the opposition of his principles  
to every mode of tyranny and despotism. In the country which he  
those great and generous principles of policy which can alone  
give any permanent happiness to civil society. Instead of giving  
for the king, he prayed for his country; instead of drawing a  
veil over the cause for which he suffered, he addressed his Master  
as engaged in it with himself. "Bless thy people, concluded he,  
and save them: and though I fall by idols, suffer not idolatry to  
be established in this land; defend thy own cause, and defend  
those who defend it: rise up such as are faint, direct those who  
are willing, comfort those who are wavering, give wisdom and  
integrity to all. Grant that I may die gloriously for all thy  
mercies; and that at the last thou wilt permit me to be singled  
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END OF THE SEVENTH VOLUME.



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## ERRATA, VOLUME VII

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